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Letter dated 17 May 2018 from the President of the International Residual Mechanism for Criminal Tribunals addressed to the President of the Security Council

I am pleased to transmit herewith the assessments of the President (see annex I) and of the Prosecutor (see annex II) of the International Residual Mechanism for Criminal Tribunals, submitted pursuant to paragraph 16 of Security Council resolution 1966 (2010).

I should be grateful if you would have the present letter and its annexes circulated to the Security Council.

(*Signed*) Theodor **Meron**

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Annex I

Assessment and progress report of the President of the International Residual Mechanism for Criminal Tribunals, Judge Theodor Meron, for the period from 16 November 2017 to 15 May 2018

1. The present report, the twelfth in a series, is submitted pursuant to Security Council resolution 1966 (2010), by which the Council established the International Residual Mechanism for Criminal Tribunals and, in paragraph 16 of that resolution, requested the President and the Prosecutor of the Mechanism to submit reports every six months to the Council on the progress of the work of the Mechanism.[1] Certain information contained in the present report is also submitted pursuant to paragraph 20 of Council resolution 2256 (2015).

I. Introduction

2. By its resolution 1966 (2010), the Security Council established the International Residual Mechanism to carry out a number of essential functions of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, including the trial of fugitives who are among the most senior leaders suspected of being primarily responsible for crimes, after the closure of the two Tribunals. Pursuant to the same resolution, the Mechanism shall operate for an initial period of four years and, subsequently, for periods of two years, following reviews of its progress, unless the Council decides otherwise.

3. In accordance with its mandate, and as set forth below, the Mechanism has assumed responsibility for a number of functions of both Tribunals, including with regard to a range of judicial activities, the enforcement of sentences, the protection of victims and witnesses and the management of archives. During the reporting period, the Mechanism was actively engaged in carrying out those responsibilities.

4. Notably, the Mechanism continues to be engaged in a period of heightened judicial activity, with the ongoing trial in the *Stanišić and Simatović* case, the appeal proceedings in the *Karadžić* and *Mladić* cases and a host of other smaller judicial matters, including in relation to requests for review of judgment, access to confidential information and allegations of contempt. The appeal judgment in the *Šešelj* case was delivered on 11 April 2018. Owing to a change of counsel in the *Ngirabatware* case, the review hearing originally scheduled for 8 to 16 February 2018 at the Arusha branch of the Mechanism could be rescheduled to take place later in 2018.

5. This heightened judicial activity comes at a time when the Mechanism is standing fully on its own for the first time following the closure of the International Tribunal for the Former Yugoslavia on 31 December 2017. As the Tribunal was finalizing its work, the Mechanism continued to work closely with its principals and staff to ensure a smooth and efficient transition of the remaining functions and services of the Tribunal to the Mechanism.

6. Although the Mechanism continued to make significant progress in the fulfilment of its mandate, it faced a number of challenges during the reporting period. It has long been anticipated that the Mechanism would face new hurdles following the closure of both Tribunals, upon whose support and services the Mechanism

[1] Unless otherwise specified, figures provided in the present report are accurate as at 15 May 2018.

depended from its inception. Following the decision of the General Assembly in 2017 not to approve the Mechanism's proposed budget for the biennium 2018–2019, however, the Mechanism reconsidered much of its long-term planning and substantially reconfigured a wide range of its operations. In view of the decision of the Assembly and pending further action in relation to the revised and significantly reduced budget proposal for the biennium (see A/72/813 and A/72/813/Corr.1), the Mechanism developed and is implementing an expenditure reduction plan to reduce the size of its staff as well as a number of non-post resources.

7. These reductions have left the Mechanism with skeletal staffing levels in many areas, opening the institution up to considerable operational risks that may have a negative impact on its ability to conduct and complete its functions in a timely and effective manner. Thus, for example, reductions in Security and in Language Support Services staff have an impact on the ability of the Mechanism to hold more than one proceeding in a day and sit for extended hours, if needed, absent significant advance notice. The reductions being undertaken also require the Mechanism to postpone or delay a variety of planned activities, such as the certification of the judicial record in a number of cases, the work to preserve audiovisual recordings currently stored on obsolete physical media (and the provision of public access to those recordings) and production of a publicly accessible catalogue of the archives. The reductions at issue include not just staffing but also non-post resources: for instance, enhancements to the premises of the Mechanism are now limited to those strictly necessary to respond to security or health and safety concerns. Further examples of the impact of the reductions are provided below. All of these reductions and the overall uncertainty have decreased staff morale and increased the risk of staff attrition as well as loss of institutional knowledge, risks that have, in fact, begun to materialize.

8. Notwithstanding these challenges, the Mechanism is determined to effectively and efficiently fulfil its mandate. The Mechanism remains guided in its activities by the Security Council's vision of it as a small, temporary and efficient structure, the functions and size of which will diminish over time, with a small number of staff commensurate with its reduced functions. To that end, the Mechanism continues to draw upon the best practices of and lessons learned from both Tribunals and other tribunals to actively pursue new ways to improve its operations, procedures and working methods and to maintain flexibility in staff assignments insofar as possible. By doing so, the Mechanism seeks to maximize effectiveness and efficiency across both of its branches while maintaining relatively low staffing levels.

9. The Mechanism is mindful of the temporary nature of its mandate. Wherever possible, detailed projections of the duration of residual functions entrusted to the Mechanism are reflected in the present report, in accordance with Security Council resolution 2256 (2015). Such projections are based on available data and, as a consequence, are at the present stage of the Mechanism's work both limited in nature and subject to modification in the event of evolving circumstances.

II. Structure and organization of the Mechanism

10. In accordance with its statute (see Security Council resolution 1966 (2010), annex 1), the Mechanism has a single set of principals — the President, the Prosecutor and the Registrar — who have responsibility over two branches, one located in Arusha, United Republic of Tanzania, and the other in The Hague, Netherlands. As mandated, the Mechanism commenced operations at its Arusha branch on 1 July 2012, assuming functions derived from the International Criminal Tribunal for Rwanda. The branch in The Hague commenced operations on 1 July 2013, assuming functions derived from the International Tribunal for the Former Yugoslavia.

A. Organs and principals

11. Article 4 of the statute of the Mechanism provides that the Mechanism shall consist of three organs: the Chambers; the Prosecutor; and the Registry, to provide administrative services for the Mechanism. The workloads of the Chambers and of the Registry are set forth below.

12. The President of the Mechanism is Judge Theodor Meron, who is based primarily at the branch in The Hague. The Prosecutor, who is based primarily at the Arusha branch, is Serge Brammertz. The Registrar is Olufemi Elias, who, subject to budgetary approval, will also be based primarily at the Arusha branch.

B. Judges

13. Article 8 of the statute of the Mechanism provides that the Mechanism shall have a roster of 25 independent judges. Pursuant to article 8 (3) of the statute, judges shall only be present at the seats of the branches of the Mechanism as necessary at the request of the President to exercise the functions requiring their presence. In so far as possible, and as decided by the President, the functions may be exercised remotely.

14. In furtherance of the Mechanism's effective and transparent management, the President continued his practice of providing regular written updates and briefings to his fellow judges on matters related to the work of the Chambers and of the Mechanism as a whole.

15. During the reporting period, and in accordance with article 10 (2) of the statute, the Secretary-General appointed Judge Elizabeth Ibanda-Nahamya to serve as a judge of the Mechanism following the resignation of Judge Solomy Balungi Bossa.

16 On 6 October 2017, the President convened a plenary of the judges, to be conducted remotely by written procedure in accordance with the Rules of Procedure and Evidence of the Mechanism. The plenary, which was called to consider certain matters related to the internal functioning of the Mechanism, was conducted in stages to ensure more effective communication processes and concluded on 9 April 2018. During the meetings of the plenary, the judges addressed issues pertaining to the diverse approaches of civil and common law systems and adopted amendments to the Rules of Procedure and Evidence. The judges also adopted a revision to the Code of Professional Conduct for the Judges of the Mechanism, adding a disciplinary mechanism for the judges of the Mechanism. Such a measure reflects international best practice in relation to judicial accountability, and its importance was endorsed by the Security Council in its resolution 2329 (2016) in relation to the International Tribunal for the Former Yugoslavia.

C. The branches

17. In accordance with article 3 of the statute of the Mechanism, the Mechanism's two branches have their seats in Arusha and The Hague, respectively. The Mechanism continued to enjoy excellent cooperation with the host State at each of its two branches, in accordance with the headquarters agreement in place for each branch.

18. The new premises of the Arusha branch have been in use since 5 December 2016. The post-construction phase of the project is ongoing and is focused on the completion of required remedial works; the appropriate recovery of direct and indirect costs arising from delays, where economically feasible to do so, pursuant to paragraph 7 of General Assembly resolution 70/258; the completion of the transition

from project management to facilities management; and the final closure of the project account. Particular attention is being paid to correcting technical defects of the facility constructed to host the archives of the International Criminal Tribunal for Rwanda, and the Mechanism started transferring the archives to the new facility during the reporting period. It is expected that 95 per cent of the archives will have been transferred to the facility by the beginning of July 2018. The Mechanism remains deeply grateful to the United Republic of Tanzania for its generous and steadfast support throughout this construction project.

19. The Mechanism's sub-office in Kigali continued to provide protection and support services to witnesses, including liaison with relevant national and local governmental bodies on these issues. The Kigali sub-office also facilitated the activities of the monitors of the cases of the International Criminal Tribunal for Rwanda that have been referred to Rwanda, pursuant to article 6 of the statute of the Mechanism.

20. The branch of the Mechanism in The Hague and the International Tribunal for the Former Yugoslavia shared premises until the closure of the Tribunal on 31 December 2017. In the interests of efficiency, the Mechanism has a strong preference for remaining at its current premises. To that end, the Mechanism negotiated with the owners of the premises to transfer the lease of the Tribunal to the Mechanism and extend it to the current biennium.

21. Following the closure of the International Tribunal for the Former Yugoslavia, the Mechanism assumed full responsibility for the sub-office of the Tribunal in Sarajevo, which is being maintained to facilitate essential liaison activities, witness protection and other services. Operations previously conducted through the sub-office of the Tribunal in Belgrade have been consolidated and streamlined with the support of staff in The Hague and the Sarajevo sub-office. The Belgrade sub-office was closed on 22 December 2017.

D. Administration, staffing and budget

22. The basic requirements for a small, self-standing Mechanism administration were developed in cooperation between the Mechanism and the Tribunals and have been included in the budgets for the Mechanism since 2014. In line with those requirements, the recruitment of the Mechanism's administrative staff occurred in phases as the Tribunals downsized and eventually closed. As at 1 January 2018, the Mechanism's administration was fully self-standing.

23. In terms of the administration of staffing, the Mechanism put in place focal points for gender issues; sexual exploitation and abuse; lesbian, gay, bisexual and transgender concerns; diversity and inclusion issues; and disability and accessibility in the workplace.

24. As at 4 May 2018, 158 of the 176 continuous posts approved to carry out the Mechanism's continuous functions were occupied. An additional 351 personnel were serving as general temporary assistance to assist with ad hoc needs, including judicial work and litigation issues. Those positions are short-term in nature and, consistent with the flexible staffing structure of the Mechanism, the number of such staff will fluctuate depending on the workload. Since the commencement of the work of the Mechanism, recruitment has occurred in full respect of all applicable rules, and no case concerning recruitment has been brought before the Organization's internal justice system.

25. The Mechanism's continuous and general temporary assistance positions included nationals of 72 States, namely, Algeria, Australia, Austria, Belgium, Bolivia

(Plurinational State of), Bosnia and Herzegovina, Bulgaria, Brazil, Burkina Faso, Burundi, Cameroon, Canada, China, the Congo, Croatia, Cuba, Cyprus, Czechia, the Democratic Republic of the Congo, Denmark, Egypt, Fiji, Finland, France, the Gambia, Germany, Ghana, Guinea, Haiti, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Kenya, Latvia, Lebanon, Lesotho, Liberia, Madagascar, Mali, Mexico, Nepal, the Netherlands, New Zealand, the Niger, Nigeria, Pakistan, the Philippines, Poland, the Republic of Korea, Romania, the Russian Federation, Rwanda, Samoa, Senegal, Serbia, Sierra Leone, South Africa, Spain, the Sudan, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uganda, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United Republic of Tanzania, the United States of America, Zambia and Zimbabwe.

26. Fifty-six per cent of Professional staff are women, which goes beyond the gender parity goals set by the Secretary-General. Further details concerning the staffing by division of the Mechanism are provided in enclosure 1.

27. By its resolution 72/258, the General Assembly approved a commitment authority in an amount not to exceed $87,796,600 gross for the maintenance of the Mechanism from 1 January to 31 December 2018. After a detailed review of the requirements for 2018 and the development of the expenditure reduction plan, the Mechanism concluded that the approved commitment authority would not be sufficient to carry out the functions mandated by the Security Council, including trials and appeals, through to the end of 2018. On the basis of the funding gap and operational risks generated by the current situation, it was concluded that it would be necessary to seek additional funding by submitting a revised budget proposal for the consideration of the Assembly at the second part of its resumed session, rather than during the second half of 2018. The revised proposed budget for the biennium 2018-2019 (A/72/813 and A/72/813/Corr.1) was considered by the Advisory Committee on Administrative and Budgetary Questions on 6 April 2018 and is expected to be considered by the Assembly in May 2018.

28. In order to implement the decision of the General Assembly pending the consideration of a revised budget proposal for the biennium 2018–2019, the Registry developed and is implementing the expenditure reduction plan to allow the Mechanism to fulfil the core elements of its mandate — mainly judicial activity — to the greatest extent possible within the commitment authority granted. As a result of this plan, reductions are being made in both post and non-post resources, as discussed above. While reductions are being made at both branches, the great majority of reductions are at the branch in The Hague.

29. The staffing reductions under the expenditure reduction plan carry significant operational risks, such as delayed mandate implementation, delayed or diminished service provision and the non-implementation of planned activities, as highlighted above.

30. In order to manage the post reductions, the Registrar requested the Joint Negotiating Committee, which serves as an advisory body to the Registrar and comprises management and staff union representatives, to develop a proposal for a streamlined downsizing policy for exigent circumstances. The Registrar has adopted the downsizing policy, and its implementation is currently under way. Meanwhile, the Committee is making significant progress in developing a proposal for a broader policy to guide future post reductions, building upon lessons learned during the downsizing at both Tribunals.

31. The expenditure reduction plan also provides for reductions of non-post resources to the greatest extent possible: general operating expenses have been significantly decreased through measures such as reducing access to the premises for staff at evenings and weekends, reconfiguring the housing of staff at the premises in

The Hague to reduce the number of floors in use (thereby saving on the costs of utilities and services) and revising arrangements for the delivery of other services such as information technology, internal mail delivery and cleaning services. Similarly, enhancements to the premises of the Mechanism are now limited to those strictly necessary to respond to security or health and safety concerns. The Mechanism's vehicle holdings have been reviewed and no provision has been made in the revised budget proposal for the acquisition of any new vehicles.

32. Details and a breakdown of the Mechanism's costs, presented in terms of funds committed, are provided in enclosure 2.

E. Legal and regulatory framework

33. Having established a structure to govern its activities, the Mechanism continued to develop rules, procedures and policies that harmonized and built upon the best practices of both Tribunals, as well as its own practice, in order for the Mechanism to best achieve its mandate in a lean and efficient fashion.

34. In accordance with article 13 (2) of the statute of the Mechanism, the judges of the Mechanism adopted amendments to certain of the Rules of Procedure and Evidence during a meeting of the plenary conducted remotely by written procedure, which concluded on 9 April 2018. The judges of the Mechanism likewise adopted revisions to the Code of Professional Conduct for the Judges of the Mechanism, introducing a disciplinary mechanism for the judges of the Mechanism, as discussed above. During the reporting period, the President also considered and provided feedback to the Registry on a variety of draft guidelines and policies.

35. The Registrar, in consultation with the President, promulgated the Mechanism's policy on translation for the conduct of judicial activity and the policy for the appointment and remuneration of amici curiae investigators and prosecutors. With regard to the latter, the Registry established a list of pre-approved candidates for appointment as amici curiae investigators or prosecutors. The Registry is also reviewing policies related to the support and protection of victims and witnesses to reflect gender-sensitive and gender-appropriate approaches, and initiated a review of the Code of Professional Conduct for Defence Counsel Appearing Before the Mechanism with a view to further clarifying the obligations of defence support staff. Additionally, in order to enhance transparency and ensure qualified legal representation in all proceedings before the Mechanism, the Registry formalized the process for the recognition of counsel providing pro bono legal advice to convicted persons.

36. The Mechanism is finalizing rules and regulations governing detention matters, drawing upon practices of both Tribunals as well as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules; see General Assembly resolution 70/175) and recommendations of the International Committee of the Red Cross. Pending promulgation of the detention-related regulatory framework, the rules of detention and related instruments of the International Tribunal for the Former Yugoslavia continued to apply, mutatis mutandis, to detainees at the branch in The Hague, while the rules of detention and related instruments of the International Criminal Tribunal for Rwanda continued to apply, mutatis mutandis, to detainees at the Arusha branch.

37. At the time of reporting, there were 34 public legal and regulatory instruments and policies in effect at the Mechanism, as well as a growing number of internal guidelines and operating procedures. Those instruments, policies and other guidance documents provide important clarity and transparency for stakeholders across a broad range of the Mechanism's mandated functions.

III. Judicial activities

38. During the reporting period, the Mechanism was seized of a number of complex matters. The President and the judges continued to engage in a wide variety of judicial activity, issuing 253 decisions and orders. In accordance with article 8 (3) of the statute of the Mechanism, judicial activity was primarily carried out remotely. The President assigned matters to judges on the basis of an equitable distribution of workload. All of the judges on the roster were collectively supported by a lean Chambers team of 21 staff serving at both branches of the Mechanism.

39. Of the 253 decisions and orders issued during the reporting period, 64 (or approximately one in four) related to requests for access to confidential material or for the variation of protective measures. The requests were made primarily by prosecution authorities in national jurisdictions, but also included requests from accused in national jurisdictions, accused or appellants in pending cases in relation to their defence or appeals and convicted persons seeking information in relation to possible requests for review. All such requests were primarily adjudicated by single judges working remotely or by the presiding judge in a pending case and typically involved the issuance of one or more preliminary orders before the issuance of the final decision.

40. Although it is not possible to foresee precisely when or how often such requests may arise, as recognized in the report of the Secretary-General preceding the establishment of the Mechanism (S/2009/258), it is expected that requests for access to confidential material or the variation of protective measures will continue to be filed as long as cases continue to be investigated and prosecuted in national jurisdictions. In addition, accused or appellants will likely continue to file such requests while their cases are pending, and convicted persons are also likely to do so until the conclusion of their sentences.

41. Judicial work was also carried out remotely by single judges in relation to other types of motions, including requests for the disclosure of exculpatory material or investigation into allegations of false testimony or contempt. As the Mechanism has a continuing obligation to safeguard the administration of justice, its duty to investigate and prosecute allegations of false testimony or contempt, subject to the provisions of article 1 (4) of its statute, will continue until its closure.

42. In addition to the above, the Mechanism judges continued their work on a trial and on appeals and requests for review related to the core crimes enumerated in the statute, as set forth below.

43. In the case of Jovica Stanišić and Franko Simatović, the trial commenced on 13 June 2017, and the presentation of the Prosecution's case is ongoing. In line with the projections made in the report issued in November 2017 (S/2017/971, annex), it is anticipated that the Prosecution will conclude the presentation of its witnesses in June or July 2018. Subject to the outcome of pending or anticipated litigation, however, the presentation of the Prosecution's witnesses may continue until October 2018 if it is in the interests of justice and the proper consideration of the case. Any deviation from the previous projection for the completion of the Prosecution's case in June 2018 is not expected at this stage to have an impact on the overall projected length of the case. Following the conclusion of the Prosecution's case and the filing of the Defence's witness and exhibit list, it will become possible to make more detailed projections concerning the overall duration of the remaining trial proceedings. Using the duration of the defence case during the original proceedings as a guide, however, it is likely that the case will conclude in the second half of 2020. At the current stage of the proceedings, the three judges on the bench in the case are carrying out their work at the seat of the Mechanism's branch in The Hague.

44. The appeals by Radovan Karadžić and the Prosecution against the trial judgment issued on 24 March 2016 by a Trial Chamber of the International Tribunal for the Former Yugoslavia in the *Karadžić* case continued during the reporting period. The Trial Chamber had found Mr. Karadžić guilty of genocide, crimes against humanity and violations of the laws and customs of war and had sentenced him to 40 years of imprisonment. In their notices of appeal, filed on 22 July 2016, Mr. Karadžić and the Prosecution presented a total of 54 grounds of appeal. Citing the unprecedented breadth and complexity of the case, the large amount of evidence on the record, the length of the trial judgment and the complexity of the issues raised on appeal, the parties requested that the Appeals Chamber grant extensions of time for the briefing process. The Appeals Chamber partly granted the requests and, after 217 days of extension, the briefing process concluded on 6 April 2017 with the filing of the parties' reply briefs. An appeal hearing was held on 23 and 24 April 2018, ahead of the previous projected schedule, and the case is now expected to be completed in December 2018 (subject to developments in the judges' deliberations), significantly earlier than projected. Apart from the President, who is presiding as prescribed by the statute, all the judges on the bench in the case are carrying out their work remotely, with the exception of the appeal hearing and in-person deliberations.

45. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the case of Vojislav Šešelj, finding him not guilty on all counts. The Prosecution appealed, and, following the issuance of written submissions by the parties, presented arguments orally to the Appeals Chamber on 13 December 2017. Mr. Šešelj, who was self-represented, did not attend the hearing. In line with a previous warning issued by the Appeals Chamber, a duty counsel was assigned to represent Mr. Šešelj's procedural interests at the hearing and Mr. Šešelj was given an opportunity to respond in writing to transcripts of the appeal hearing. The Appeals Chamber delivered its judgment on 11 April 2018, in which it reversed Mr. Šešelj's acquittals, in part, and convicted him of instigating persecution (forcible displacement), deportation and other inhumane acts (forcible transfer) as crimes against humanity and for committing persecution (violation of the right to security) as a crime against humanity in Hrtkovci, Vojvodina (Serbia). The Appeals Chamber sentenced Mr. Šešelj to 10 years of imprisonment, but declared the sentence served in view of the credit to which he was entitled under the Rules of Procedure and Evidence for his detention in the custody of the International Tribunal for the Former Yugoslavia pending trial from 14 February 2003 to 6 November 2014. With the exception of the President, who was presiding as prescribed by the statute, all the judges on the bench in the case carried out their w rk remotely, with the exception of the appeal hearing, in-person deliberations and the delivery of the judgment.

46. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the case of Ratko Mladić, finding him guilty of genocide, crimes against humanity and violations of the laws and customs of war, and sentencing him to life imprisonment. Citing the extraordinary breadth and complexity of the case, the length of the trial judgment, the lack of defence resources, and intended medical and legal filings, Mr. Mladić requested the Appeals Chamber to extend the deadline for filing his notice of appeal. The Appeals Chamber granted a limited extension of time for the filing of notices of appeal and rejected a request for a further extension of time. Both Mr. Mladić and the Prosecution filed their notices of appeal on 22 March 2018. As set forth below, accurate predictions as to completion can only be made at the conclusion of the briefing. At this stage, a pre-briefing estimate can be made for completion of the case by the end of 2020. At present, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding as prescribed by the statute.

47. On 8 July 2016, Augustin Ngirabatware filed a request for review of his judgment. As described in previous reports, the proceedings in the case were delayed owing to the inability of Judge Aydin Sefa Akay to exercise his judicial functions in the case until his provisional release from detention on 14 June 2017. Thereafter, the Appeals Chamber was able to consider the merits of Mr. Ngirabatware's request. On 19 June 2017, the Appeals Chamber granted the request for review and ordered the parties to file a list of proposed evidence and witnesses to be introduced at a review hearing. On 19 December 2017, the Appeals Chamber authorized the replacement of Mr. Ngirabatware's counsel in view of a conflict of interest. Following the replacement of counsel, the Pre-Review Judge ordered Mr. Ngirabatware and the Prosecution to file by the end of June 2018 a list of anticipated witnesses and evidence to be heard at a forthcoming review hearing. Following receipt of that information, the Appeals Chamber will determine the scope and timing of the hearing, which is expected to occur in the second half of 2018. At the current stage of the proceedings, all the judges on the bench in the case are carrying out their work remotely, with the exception of the President, who is presiding as prescribed by the statute.

48. During the reporting period, the President of the Mechanism, pursuant to his authority in the area of enforcement of sentences, issued six orders and decisions in relation to requests for early release, as well as a number of other decisions. He is currently seized of a number of other confidential enforcement matters. In reaching decisions on certain enforcement matters, the President consults the judges of the sentencing Chamber who are judges of the Mechanism, as applicable, through remote procedure. If none of the judges who imposed the sentence are judges of the Mechanism, the President is to consult at least two other judges. The President also issued a number of additional orders and decisions, including five orders and decisions related to requests for review of administrative decisions. Moreover, the President issued 36 assignment orders, of which 26 were assignments to single judges and 10 were assignments to the Appeals Chamber.

49. All estimates in the present report related to judicial activities are based on the presumption that no extraordinary events that may have an impact on their conduct will occur during the course of the proceedings, such as the replacement of counsel for reasons of health, newly arising conflicts or the illness of an accused. All projections remain subject to periodic updating on the basis of any new information. In this respect, the Mechanism recalls that, in its evaluation report of 12 May 2016, the Office of Internal Oversight Services (OIOS) indicated with respect to cases of the International Tribunal for the Former Yugoslavia that any changes based on the requirements of a just resolution of a case should not necessarily be construed as reflecting slippage in the conduct of a case and that accurate predictions as to completion could only be made at the close of a trial or at the conclusion of a briefing on appeal. With respect to projections for judicial activities other than trials and appeals from judgment, the Mechanism recalls the observations made in the report of the Secretary-General that "it is not possible to foresee when, and how often, requests related to contempt cases, protective orders, review of judgements, referral of cases and pardon and commutation of sentences will arise", but that "such issues are more likely to arise within a period of 10 to 15 years after the closure of the Tribunals and that the level of work involved ... will inevitably decrease over time" (see S/2009/258, para. 102).

50. Efforts continued to streamline internal working methods and processes within Chambers and, in collaboration with various other Sections of the Mechanism, to further facilitate the maintenance of an efficient and transparent "one office" work environment that drew on the resources available at both branches of the Mechanism to address judicial workload collectively wherever arising. In addition, the President and senior staff members regularly exchanged information and views with

representatives from other courts and tribunals with a view to identifying and sharing best practices in fair and expeditious case management. Moreover, the judges, whose legal backgrounds are roughly evenly split between civil and common law, continued to draw on their expertise and knowledge in the adjudication of the various matters to which they were assigned.

51. Notwithstanding those strengths, both the Chambers Legal Support Section and the Office of the President were affected by the decision not to approve the Mechanism's budget as originally proposed for the biennium 2018–2019. In particular, the departure of several staff members from the already lean teams and the deferral of recruitment to fill vacancies increased the workload of existing staff and resulted in longer time frames for addressing less time-sensitive matters. The absence of an approved biennial budget also affected staff morale, giving rise to a risk of staff attrition, which may have an impact on the timely completion of judicial activities as outlined above.

IV. Registry support to judicial activities

52. During the reporting period, the Registry continued to provide support to the Mechanism's judicial activities at both branches.

53. The Registry processed and disseminated 1,071 filings, including 133 Registry legal submissions, amounting to 12,584 pages. In addition, the Registry facilitated and serviced two status conferences in the *Karadžić* case, appeal hearings in the *Šešelj* and *Karadžić* cases, the rendering of the appeal judgment in the *Šešelj* case and hearings in the *Stanišić and Simatović* case. With respect to the latter, the Registry facilitated court hearings in accordance with the Trial Chamber's court schedule, as well as the provision of testimony by witnesses via video-link conferences.

54. The Registry's Language Support Services translated 11,000 pages of documents, provided 346 conference interpreter days and produced 8,000 pages of transcripts in English and French. This includes the Kinyarwanda Unit of the Language Support Services, which provides translations of, inter alia, monitoring reports with respect to cases referred to Rwanda.

55. Reductions undertaken pursuant to the expenditure reduction plan leave only a bare minimum of staff in the Registry to support courtroom functions, and the illness or unexpected absence of an interpreter, courtroom officer, witness protection officer or other essential courtroom personnel, such as audiovisual technicians and security personnel, means that court sessions, including in the ongoing *Stanišić and Simatović* case, may have to be delayed.

56. Furthermore, given the implementation of the expenditure reduction plan, the increased strain on the limited resources of the Language Support Services will result in delays of necessary translations for court proceedings. Staff reductions in the Language Support Services will delay the completion of the translation of the *Mladić* trial judgment into Bosnian-Croatian-Serbian by several months, which risks delaying the *Mladić* appeal proceedings. The translation of the *Prlić et al.* and *Šešelj* appeal judgments into Bosnian-Croatian-Serbian can only begin thereafter.

57. The Registry's Office for Legal Aid and Defence administered the Mechanism's legal aid system and provided various forms of assistance, financial and otherwise, to an average of 45 defence teams comprising a total of approximately 110 defence team members. In particular, the Office processed over 120 defence invoices, travel requests and expense reports during the reporting period. In addition, the Office increased the number of counsel admitted to the list of counsel eligible for assignment to suspects and accused before the Mechanism to 49.

V. Victims and witnesses

58. Pursuant to article 20 of the statute of the Mechanism and article 5 of the transitional arrangements (see Security Council resolution 1966 (2010), annex 2), the Mechanism is responsible for the protection of the witnesses who have testified in cases completed by the two Tribunals, as well as of those witnesses who have appeared or may appear before the Mechanism. In practice, this entails the protection and support of approximately 3,150 witnesses.

59. The Witness Support and Protection Unit continued to be fully operational at both branches of the Mechanism. Consistent with judicial protection orders, and in close collaboration with domestic authorities and other United Nations entities, the Unit provided security for witnesses by undertaking threat assessments and coordinating responses to security-related requirements. The Unit also ensured that protected witness information remained confidential, and it continued to contact witnesses when orders to seek consent to the rescission, variation or augmentation of witness protective measures were received. In addition, the Unit facilitated contact between parties and relocated witnesses or witnesses of opposite parties when so required.

60. As part of the provision of support services to witnesses by the Mechanism at the Arusha branch, witnesses residing in Rwanda continued to receive medical and psychosocial services. Those services are particularly focused on the witnesses experiencing psychological trauma or living with HIV/AIDS, as many of those who contracted the virus did so as a result of crimes committed against them during the genocide.

61. The witness protection teams at the two branches continued to exchange best practices and to use a common information technology platform for their respective witness databases. The platform maximizes operational efficiency across both branches.

62. During the reporting period, the Witness Support and Protection Unit implemented and complied with 25 judicial orders related to protected witnesses, including orders in relation to requests for the variation of protective measures. In addition, the Unit assisted with addressing requests for the variation of protective measures related to the International Tribunal for the Former Yugoslavia until its closure on 31 December 2017. The Unit at the branch in The Hague continued to receive new referrals for the assessment and implementation of protective measures.

63. The Witness Support and Protection Unit at the branch in The Hague continued to support witness activity in the *Stanišić and Simatović* case, facilitating the testimony of 16 witnesses in the case during the reporting period. Similarly, the Witness Support and Protection Unit at the Arusha branch made administrative and logistical arrangements for witness activity related to the anticipated hearing in the *Ngirabatware* case.

64. During the reporting period, the Witness Support and Protection Unit at the Arusha branch, in collaboration with the Office of the United Nations High Commissioner for Refugees (UNHCR), intervened with authorities in national jurisdictions on behalf of 85 protected witnesses who testified before the International Criminal Tribunal for Rwanda, for consideration of exemption applications pertaining to the implementation of the UNHCR cessation clause of the Convention relating to the Status of Refugees of 1951.

65. Further reductions in the staffing levels of the witness protection and support teams may jeopardize the provision of ongoing protection services owing to an inability to expeditiously address all security matters requiring assessment. There is

likewise a risk of delays in trial hearings if witness protection staff are not available to provide psychosocial support and counselling to witnesses prior to testifying.

66. It is expected that victim and witness protection will continue to be required in future bienniums in the light of the numerous judicial protection orders covering 3,150 victims and witnesses that will remain in force unless rescinded or waived. It is difficult to assess precisely how long the victim and witness protection function would need to remain operational. The provision of support may be required until the last victim or witness is deceased or, where applicable, until the cessation of protective measures covering a victim's or witness's immediate family members. In relation to relocated witnesses, support may be required until the last member of the immediate family is deceased.

VI. Fugitives and trial and appeal readiness

67. The responsibility for tracking the remaining fugitives indicted by the International Criminal Tribunal for Rwanda was transferred to the Mechanism on 1 July 2012, in accordance with article 6 of the transitional arrangements (see Security Council resolution 1966 (2010), annex 2). In that resolution, the Council urged all States, especially States where fugitives were suspected to be at large, to further intensify cooperation with and render all necessary assistance to the Mechanism to achieve the arrest and surrender of all remaining fugitives as soon as possible.

68. Eight accused indicted by the International Criminal Tribunal for Rwanda remained fugitives. Of the eight fugitives, the Mechanism retained jurisdiction over three: Félicien Kabuga, Augustin Bizimana and Protais Mpiranya. The cases of the other five fugitives had been referred to Rwanda by the Tribunal. The arrest and prosecution of all eight individuals remained a top priority for the Mechanism. The fugitive tracking function is within the responsibility of the Prosecutor and is discussed in his report (see annex II).

69. Consistent with its commitment to efficiency, the Mechanism continued to ensure that it was prepared to conduct a trial or appeal in the event of a fugitive being apprehended or of any ongoing proceedings resulting in an appeal or retrial. Pursuant to article 15, paragraph 4, of the statute of the Mechanism, rosters of qualified potential staff have been established to enable the expeditious recruitment of the additional staff required to support those judicial functions.

70. Trial readiness will continue to be required as long as the cases of the remaining accused still at large are pending before the Mechanism. Furthermore, there is a possibility that a retrial may be ordered in any ongoing appeal proceedings or that the referral of a case to a national jurisdiction for trial may be revoked.

VII. Detention facilities

71. At the United Nations Detention Facility in Arusha and the United Nations Detention Unit in The Hague, the Mechanism detains persons awaiting trial, appeal or other judicial proceedings before the Mechanism, as well as persons otherwise detained on the authority of the Mechanism, such as convicted persons awaiting transfer to an enforcement State.

72. The Mechanism has managed and operated the United Nations Detention Facility in Arusha since the transfer of that function from the International Criminal Tribunal for Rwanda on 1 October 2015.

73. It is expected that the services of the United Nations Detention Facility in Arusha will continue to be required until the two convicted persons currently awaiting transfer to an enforcement State are transferred or, alternatively, released. Once the remaining convicted persons are transferred, the Facility will retain an area commensurate to the detention of the remaining three fugitives expected to be tried by the Mechanism after they are apprehended and will provide a residual custodial capacity for other individuals who may appear before the Mechanism.

74. In The Hague, the Mechanism shared the responsibility for the provision of detention services at the United Nations Detention Unit with the International Tribunal for the Former Yugoslavia. Management of the Unit was fully transferred to the Mechanism on 31 December 2017. The services of the Unit will continue to be required until all trials and appeals in ongoing cases are concluded and all detained persons are released or transferred to an enforcement State, after which a reduced, residual custodial capacity for other individuals who may appear before the Mechanism may have to be arranged.

75. As described in more detail in section II. E above, the Mechanism is in the process of finalizing a regulatory framework to govern detention matters at both branches.

VIII. Cases referred to national jurisdictions

76. Pursuant to article 6, paragraph 5, of its statute, the Mechanism is responsible for monitoring cases referred to national courts by the two Tribunals, with the assistance of international and regional organizations and bodies.

77. The cases of three individuals indicted by the International Criminal Tribunal for Rwanda and subsequently apprehended, Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa, were referred to Rwanda for trial. The *Uwinkindi* case was on appeal, as was the *Munyagishari* case. Trial proceedings were ongoing in the *Ntaganzwa* case. Two additional individuals indicted by the Tribunal, namely, Laurent Bucyibaruta and Wenceslas Munyeshyaka, had their cases referred to France for trial. The *Bucyibaruta* case continued to be in the investigative/pretrial phase, while an appeal was pending before an Investigation Chamber in relation to the *Munyeshyaka* case after it was dismissed in 2015 by French investigating judges.

78. The Mechanism continued to monitor the cases referred to Rwanda with the pro bono assistance of six monitors from the Kenyan section of the International Commission of Jurists, pursuant to a memorandum of understanding concluded on 15 January 2015 and subsequently amended on 16 August 2016 to formally encompass the *Ntaganzwa* case. An interim monitor continued to monitor the two cases referred to France.

79. The Mechanism continued to monitor the status of the case of Vladimir Kovačević, which was referred to Serbia by the International Tribunal for the Former Yugoslavia in March 2007.

80. The Mechanism's activities in relation to cases referred to national jurisdictions are expected to continue for the duration of those cases. While each case is different, the experience with referred cases to date is instructive as to potential timelines. The *Ntaganzwa* case is currently at trial, approximately two years after the accused was transferred to Rwanda. Mr. Uwinkindi was transferred to Rwanda for trial in 2012, and Mr. Munyagishari was transferred to Rwanda for trial in 2013. Both of their cases are currently at the appeal stage. If any of the five remaining fugitives whose cases have been referred to Rwanda for trial are arrested, the estimate for the continuation of the Mechanism's monitoring function with respect to Rwanda will need to be

assessed at that time. The two cases referred to France have been at the investigative/pretrial phase for 10 years and, as set forth above, remain ongoing. Further estimates for the continuation of the Mechanism's monitoring function with respect to France will depend on decisions of the French judicial authorities in those cases.

IX. Enforcement of sentences

81. In accordance with article 25 of the statute of the Mechanism, the Mechanism has jurisdiction to supervise the enforcement of sentences. In accordance with article 26 of the statute, the President of the Mechanism has the authority to decide on requests for pardon or commutation of sentence.

82. The Mechanism relies on the cooperation of States for the enforcement of sentences. Sentences are served within the territory of States Members of the United Nations that have concluded agreements for the enforcement of sentences or indicated their willingness to accept convicted persons under any other arrangement. The agreements concluded by the United Nations for the two Tribunals continue to apply to the Mechanism, mutatis mutandis, unless superseded by subsequent agreements. The Mechanism continued its efforts to secure additional agreements to increase its enforcement capacity for both branches and it welcomes the cooperation of States in that regard.

83. In December 2017, the Mechanism transferred four convicted persons from the United Nations Detention Facility in Arusha to Senegal to serve their sentences. In February 2018, an additional four convicted persons were transferred to Benin to serve their sentences. Of the 30 persons convicted by the International Criminal Tribunal for Rwanda who are currently serving their sentences, 12 are in Mali, 14 are in Benin and 4 are in Senegal. Two convicted persons remain at the United Nations Detention Facility in Arusha, pending transfer to an enforcement State.

84. Sixteen persons convicted by the International Tribunal for the Former Yugoslavia are currently serving their sentences under the supervision of the Mechanism. Those individuals are serving their sentences in nine States: Denmark (1), Estonia (3), Finland (2), France (1), Germany (4), Italy (1), Norway (1), Poland (2) and Sweden (1). Six convicted persons are at the United Nations Detention Unit in The Hague, awaiting transfer to enforcement States. The Registrar continued negotiations with potential enforcement States concerning the possible enforcement of their sentences.

85. The Mechanism is deeply grateful to the above-mentioned States for their ongoing engagement in the enforcement of sentences.

86. The Mechanism, in coordination with national authorities and the United Nations Development Programme, continued efforts to address the recommendations of the relevant inspecting bodies charged with examining the conditions of detention in enforcement States, as well as the recommendations of an independent prison management expert engaged by the Mechanism.

87. The Mechanism also recently engaged an expert on ageing in prison and associated vulnerabilities. In March 2018, the expert inspected the prison conditions of the persons serving their sentences in Mali and Benin under the supervision of the Mechanism and will issue recommendations to the Mechanism in due course.

88. The Mechanism continued to monitor closely the particular security situation in Mali and received advice and reports from the Department of Safety and Security of the Secretariat and the designated security official in Mali.

89. It is the goal of the Mechanism to complete the transfer of all convicted persons currently held at the United Nations Detention Facility in Arusha or the United Nations Detention Unit in The Hague to enforcement States in the course of 2018, subject to the cooperation of States.

90. The functions related to the supervision of the enforcement of sentences carried out under the authority of the President will continue until the last prison sentence has been served, subject to the application of rule 128 of the Rules of Procedure and Evidence of the Mechanism, which allows for the possibility of designating another body to supervise the enforcement of sentences after the Mechanism ceases to exist, in the event that any convicted person remains imprisoned in an enforcement State at that time.

91. As set forth in the report of the Secretary-General mentioned above, it is not possible to foresee when or how often requests for pardon and commutation of sentence may arise. Nevertheless, it was stated in that report that, in general terms, such issues were more likely to arise within a period of 10 to 15 years after the closure of the Tribunals and that the level of work involved would inevitably decrease over time. It was also stated that the two Tribunals estimated that applications for commutation of sentence, pardon or early release could be expected until at least 2027 for cases of the International Tribunal for the Former Yugoslavia and until around 2030 for cases of the International Criminal Tribunal for Rwanda. That estimate, which was made in 2009, requires a slight adjustment, given the fact that several individuals currently serving life sentences will not be eligible for consideration of pardon, commutation of sentence or early release until at least 2035, even though they may seek such relief before that time.

X. Relocation of acquitted and released persons

92. The Mechanism continued to deploy focused efforts to facilitate sustainable solutions for the resettlement of acquitted and released persons and to provide those still residing in Arusha with relevant assistance, in line with the Strategic Plan for the Relocation of Acquitted and Released Persons. The number of acquitted and released persons in Arusha remained at 11 during the reporting period.

93. Through its consistent approach of seeking consensual relocation outcomes, the Mechanism continued to engage bilaterally with States that had, in principle, indicated willingness to accept one or more of those persons. The Mechanism also supported the private relocation efforts of acquitted and released persons by engaging with relevant government officials during the reporting period. Furthermore, the Registrar pursued high-level exploratory contacts with other relevant States in that regard.

94. The Mechanism remains fully dependent upon the goodwill of States in accepting acquitted and released persons for relocation in their countries. In view of the experience to date and the numbers of individuals concerned, it remains unlikely that the Mechanism's efforts will lead to a relocation of all individuals concerned within the foreseeable future; nevertheless, the Mechanism will continue to seek to achieve appropriate bilateral outcomes with relevant States. The Mechanism remains grateful to the Security Council and individual States for their ongoing support for relocation efforts in order to resolve this long-standing challenge, which will persist until such time as all acquitted and released individuals are appropriately relocated or are deceased.

XI. Archives and records

95. In accordance with article 27 of its statute, the Mechanism has responsibility for the management, including preservation and access, of the archives of the Mechanism and the two Tribunals, which are co located with the respective branches of the Mechanism. The management of the archives includes responsibility for the preservation, arrangement and description of records, their security and the provision of access thereto.

96. The archives include records concerning: investigations, indictments and court proceedings; the protection of witnesses; the detention of accused persons; and the enforcement of sentences. The archives also include documents from States, other law enforcement authorities, international and non-governmental organizations and other stakeholders. The records exist in both digital and physical formats and consist of documents, maps, photographs, audiovisual recordings and objects. The Mechanism Archives and Records Section has been tasked with preserving the records and facilitating the widest possible access to them, while ensuring the continued protection of confidential information, including that concerning protected witnesses.

97. The Mechanism Archives and Records Section in Arusha is currently responsible for the management of more than 2,000 linear metres of physical records of both the International Criminal Tribunal for Rwanda and the Mechanism. The Section is also responsible for the periodic disposition of the records that have temporary value, in accordance with established retention policies. During the reporting period, this entailed the authorized destruction of 106 linear metres of records. The Mechanism will rem in responsible for the management of the records of the Tribunal that have been designated for permanent retention, as well as the records of archival value generated by the Mechanism at the Arusha branch.

98. The Mechanism Archives and Records Section in The Hague is currently responsible for the management of more than 2,400 linear metres of physical records from the International Tribunal for the Former Yugoslavia and the Mechanism. The Tribunal transferred the last of its physical records (772 linear metres) to the Mechanism during the reporting period. The Section initiated a preservation assessment survey of the physical records of the Tribunal and a project to repackage, to archival standards, maps and artefacts from the Tribunal's judicial archives.

99. Furthermore, during the reporting period, the International Tribunal for the Former Yugoslavia completed the disposition of its digital records. The Mechanism Archives and Records Section now manages a total of 2,753.045 terabytes of digital records from the Tribunals and the Mechanism.

100. Most of the digital records of the Tribunals will be incorporated into the Mechanism's digital preservation system to safeguard their long-term integrity, reliability and usability. During the reporting period, the work commenced with the ingestion of approximately 1,000 gigabytes of digital records at the branch in The Hague, including more than 40,000 files in a variety of formats. This marks a major milestone in the preservation of digital records at the Mechanism. The work will continue at both branches in the coming years.

101. The updating of the public interfaces to access and search judicial records of the Tribunals and the Mechanism continued throughout the reporting period. Over 350,000 judicial records, including approximately 12,000 hours of audiovisual recordings, are currently available to the public through the interfaces. During the reporting period, the records were accessed by more than 12,500 users from around the world.

102. The Mechanism received and responded to more than 60 requests for access to records under the Mechanism's policy on access during the reporting period. Many of those requests were for copies of audiovisual recordings of courtroom proceedings.

103. The Mechanism Archives and Records Section continued its efforts to enhance efficiency and effectiveness and to improve working practices through the development and implementation of a comprehensive governance framework for the management of archives and records. Those efforts included the development of key archives and record-keeping strategies to ensure compliance with best practices, as well as policy instruments for their transparent and consistent implementation, such as the finalization of a manual for the arrangement and description of archives managed by the Section.

104. The Mechanism Archives and Records Section continued its programme of exhibitions and events to bring attention to the Mechanism's archives. A standing exhibition entitled "ICTY: Looking Back", marking the twenty-fifth anniversary of the founding of the International Tribunal for the Former Yugoslavia, was presented at both branches of the Mechanism and featured selected materials from the Tribunal's archives.

105. As a result of the expenditure reduction plan, work to preserve a number of vulnerable records will be delayed, and these records will be at risk of permanent loss. Delays in providing access to records are also inevitable.

XII. Cooperation of States

106. Pursuant to article 28 of the statute of the Mechanism, States are required to cooperate with the Mechanism in the investigation and prosecution of persons covered under the statute and to comply with orders and requests for assistance in relation to cases before the Mechanism. States are also required to respect the statute of the Mechanism owing to its adoption by the Security Council pursuant to Chapter VII of the Charter of the United Nations. The Mechanism is dependent upon the cooperation of States.

107. The arrest and surrender of the remaining fugitives are a priority of the Mechanism. As described above, the Mechanism requires the full cooperation of States in relation to the ongoing fugitive-tracking operations conducted by the Prosecutor, and it continues the practice of the International Criminal Tribunal for Rwanda by calling for the assistance of relevant States in that respect. As also described above, the Mechanism relies on the cooperation of States for the enforcement of sentences.

108. The Mechanism continued to promote communication and cooperation with the Governments of Rwanda and of the States of the former Yugoslavia. The Mechanism will continue to discuss matters of mutual interest with the Rwandan authorities, including means by which cooperation with the Government can be enhanced, in line with paragraph 23 of Security Council resolution 2256 (2015). In that regard, the Mechanism's Kinyarwanda Unit, established at the beginning of 2016, has continued to translate trial judgments of the International Criminal Tribunal for Rwanda into Kinyarwanda. The translation of two such judgments, as well as of a number of decisions, was completed during the reporting period.

109. Representatives of the Mechanism, up to and including the level of the principals, also met with groups of victims and engaged with government officials from Rwanda and the States of the former Yugoslavia during the reporting period.

110. After the closure of the International Tribunal for the Former Yugoslavia, the Mechanism assumed the remaining responsibilities of the Tribunal with regard to facilitating the establishment of information and documentation centres in the region of the former Yugoslavia, in accordance with paragraph 15 of Security Council resolution 1966 (2010). During the reporting period, the Mechanism provided cooperation and technical support in relation to an information and documentation centre in Sarajevo, the opening of which is planned for 23 May 2018.

XIII. Assistance to national jurisdictions

111. In accordance with article 28 of the statute of the Mechanism, the Mechanism shall respond to requests for assistance from national authorities in relation to the investigation, prosecution and trial of those responsible for serious violations of international humanitarian law in the countries of the former Yugoslavia and Rwanda.

112. The Mechanism routinely receives requests from national authorities or parties to national proceedings for assistance in relation to domestic proceedings concerning individuals allegedly implicated in the genocide in Rwanda or the conflicts in the former Yugoslavia. During the reporting period, the Mechanism also received and considered requests to vary the protective measures for witnesses and disclose their testimony and evidence (see sect. III above). Comprehensive information and guidance for those who wish to request assistance are available on the Mechanism's website.

113. The data concerning requests for assistance submitted to both branches of the Mechanism continued to be centralized into one repository. The branches also continued to exchange best practices for the development of policies and training programmes with a view to maximizing operational efficiency and ensuring that the Mechanism provides effective assistance to national jurisdictions.

114. During the reporting period, the Registry processed 96 requests for assistance from national jurisdictions and provided 28,865 documents. Nevertheless, as a result of the expenditure reduction plan, delays in providing access to records in response to requests from national jurisdictions are inevitable.

115. It is expected that activities linked to requests for assistance from national jurisdictions will continue concomitant to the investigation and prosecution of cases related to the genocide in Rwanda and the conflicts in the former Yugoslavia in domestic jurisdictions. A high demand for requests for assistance is expected to continue over the coming bienniums.

XIV. External relations

116. The core tasks of the External Relations Office, which has staff at both branches of the Mechanism, include developing and maintaining relations with relevant external stakeholders and informing the public about the Mechanism's work, including through the Mechanism's website and social media channels and by responding to media inquiries, organizing public events and producing informational materials.

117. At the branch in The Hague, the External Relations Office organized and facilitated the attendance of the media and the general public at a number of public judicial hearings during the reporting period. A total of 72 accredited journalists and 128 victims (or their representatives), diplomats, researchers and other members of the public attended the appeal hearings in the *Šešelj* case on 13 December 2017 and the *Karadžić* case on 23 and 24 April 2018, as well as the public pronouncement of

the appeal judgment in the *Šešelj* case on 11 April 2017. The live streaming on the Mechanism's website of the appeal hearings and the pronouncement of the appeal judgment received more than 12,000 views, posts on social media about the appeal hearings and the judgment reached 54,000 users, and the pronouncement of the appeal judgment in the *Šešelj* case was widely broadcast and covered in the print and digital media in the former Yugoslavia. The ongoing trial in the *Stanišić and Simatović* case was attended by 1,203 visitors, while the online streaming of the court sessions in the case received a total of 16,885 views during the reporting period.

118. Furthermore, the External Relations Office organized the inaugural International Organizations Open Day at the Mechanism's premises in Arusha on 25 November 2017, in partnership with other Arusha-based international institutions. More than 1,000 visitors attended and were given an opportunity to tour the courthouse complex, view the Mechanism's archives facility and attend presentations in the courtroom.

119. In cooperation with the Office of the Prosecutor, the External Relations Office developed and launched an online exhibition on the Mechanism's website on 28 November 2017 showcasing some of the evidence collected by the Office of the Prosecutor during investigations into crimes committed in Rwanda and the former Yugoslavia.

120. Overall, the Mechanism's website was visited over 180,000 times during the reporting period, an increase of over 75 per cent from the previous reporting period.

121. In addition to visitors attending special events or court proceedings, the Mechanism continued to welcome other visitors to its premises and to provide library services at both branches. The Arusha branch welcomed 791 visitors during the reporting period, including senior government officials, such as the Minister for Foreign Affairs of Germany and the Minister of Justice of Rwanda, and officials from African regional courts, as well as researchers and members of the public from the Great Lakes region and beyond. The Arusha library welcomed 489 visitors and processed a total of 2,596 enquiries, including research requests and loans. In The Hague, the External Relations Office welcomed groups comprising 1,332 visitors during the reporting period, while the library of the branch in The Hague processed 742 research requests and loans.

122. During the reporting period, services provided by the External Relations Office to the public had to be scaled down as a result of the expenditure reduction plan and the reduced staffing levels. The support provided by the External Relations Office for judicial events in April 2018 at the branch in The Hague had to be curtailed because the Office was unable to fully accommodate interested media representatives and members of the public. In particular, fewer media inquiries could be responded to and the production of informational materials was limited.

XV. Reports of the Office of Internal Oversight Services

123. During the reporting period, the Mechanism continued to benefit from regular audits by OIOS and the implementation of its recommendations. In addition, OIOS completed an evaluation of the methods and work of the Mechanism. Two audit reports and one evaluation report were issued by OIOS during the reporting period.

124. The first audit report, issued in December 2017, assessed the readiness for management of trial and appeal hearings at the Mechanism. OIOS stated that the Mechanism was adequately prepared to conduct trial and appeal proceedings and did not make any recommendations. A subsequent audit, discussed below, considered the readiness of the Arusha courtroom to hold judicial hearings.

125. The second audit report, issued in February 2018, focused on the post-construction phase and occupancy of the new premises of the Mechanism in Arusha. OIOS made eight important recommendations, which the Mechanism accepted and is implementing. One recommendation has been closed, with the courtroom having been completed and now ready to hold trials and appeals. Progress towards the implementation of other recommendations has been made, such as the rerouting of water pipes and the water-based cooling system outside the building, the finalization of improvements to the firefighting equipment and the rectification of identified defects. Additionally, consultations with the Office of Legal Affairs continue with regard to contractual damages possibly available to the Mechanism.

126. In the evaluation report, issued in March 2018, OIOS assessed the relevance, efficiency and effectiveness of the methods and work of the Mechanism in implementing its mandate during the period 2016–2017, with a focus on its consolidation, coordination and organizational arrangements in becoming a self-standing institution across two branches. OIOS made six important recommendations and the Mechanism has begun their implementation. Among other steps, the Registry commenced the restructuring of the provision of administrative services at both branches to achieve further efficiencies. Furthermore, the Registry is planning a review of existing strategies to enhance cross-branch coordination and the development of scenario-based analysis and actionable risk mitigation plans with a view to increasing responsiveness to changes in the Mechanism's workload.

127. At the time of reporting, an audit on the liquidation of the International Tribunal for the Former Yugoslavia was ongoing. In addition, the Mechanism continued to implement recommendations made in earlier OIOS audits.

XVI. Conclusion

128. As recognized in the evaluation report issued by OIOS in March 2018, the Mechanism has made significant progress towards establishing itself as a small, temporary and efficient structure, the functions and size of which will diminish over time, with the capacity to respond to varying workloads and balance immediate demands against longer-term priorities. As likewise recognized by OIOS, while the Mechanism is mindful of its mandate to be temporary, some of its continuous functions are fulfilling long-term needs.

129. While it faces a number of challenges, including in relation to its current budgetary situation, the Mechanism continues to do its utmost to ensure the efficient and effective conduct and completion of the mandate entrusted to it. Its ability to achieve that aim will continue to depend upon the sustained and sustaining support from its host States, the United Republic of Tanzania and the Netherlands, as well as from Rwanda, the States of the former Yugoslavia and individual States Members of the United Nations with respect to specific issues. The Mechanism also acknowledges with gratitude the significant assistance it continues to receive from the Office of Legal Affairs and the Department of Management of the Secretariat, as well as the vital cooperation provided by the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia prior to their respective closures. All of these contributions, as well as the dedication of the Mechanism's judges and staff, are crucial to the success of the Mechanism as it continues to carry out and complete its functions and to serve as an embodiment of the commitment of the United Nations to accountability and the rule of law.

Enclosure 1

International Residual Mechanism for Criminal Tribunals: staffing*

Table 1
Number of staff by branch and organ

Category	*Arusha branch*	*The Hague branch*	*Chambers[a]*	*Office of the Prosecutor*	*Registry[b]*	*Mechanism overall*
All staff	155	354	32	85	392	509
Staff on continuous posts	98	60	8	21	129	158
Staff on general temporary assistance positions	57	294	24	63	264	351
International staff (Professional and Field Service)	82	153	24	55	156	235
Local staff (General Service)	73	201	8	29	237	274

[a] Chambers staffing data include the Office of the President and exclude judges.
[b] Registry staffing data include: Immediate Office of the Registrar; Archives and Records Section; Witness Support and Protection; Conference Support Services; Language Support Services; Public Relations; Office for Legal Aid and Defence; Administration; and Security, including at the United Nations Detention Facility and the United Nations Detention Unit.

Table 2
Geographical representation, by regional group

	Arusha branch	*The Hague branch*	*Mechanism overall (percentage)*
Nationalities	**38**	**59**	**72**
All staff			
Africa	119	22	141 (28)
Asia-Pacific	8	22	30 (6)
Eastern Europe	4	83	87 (17)
Latin America and the Caribbean	2	7	9 (2)
Western Europe and other States	22	220	242 (47)
International staff (Professional and Field Service)			
Africa	46	9	55 (23)
Asia-Pacific	8	8	16 (7)
Eastern Europe	4	35	39 (17)
Latin America and the Caribbean	2	3	5 (2)
Western Europe and other States	22	98	120 (51)
Local staff (General Service)			
Africa	73	13	86 (31)
Asia-Pacific	–	14	14 (5)
Eastern Europe	–	48	48 (18)
Latin America and the Caribbean	–	4	4 (1)
Western Europe and other States	–	122	122 (45)

(Footnotes on following page)

* The data in the present enclosure represent the number of staff employed as at 4 May 2018.

(Footnotes to table 2)

African Group: Algeria, Burkina Faso, Burundi, Cameroon, Congo, Democratic Republic of the Congo, Egypt, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Madagascar, Mali, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan, Uganda, United Republic of Tanzania, Zambia and Zimbabwe.

Asia-Pacific Group: China, Cyprus, Fiji, India, Indonesia, Iraq, Lebanon, Nepal, Pakistan, Philippines, Republic of Korea, Samoa and Thailand.

Eastern European Group: Bosnia and Herzegovina, Bulgaria, Croatia, Czechia, Latvia, Poland, Romania, Russian Federation, Serbia, the former Yugoslav Republic of Macedonia and Ukraine.

Latin American and Caribbean Group: Bolivia (Plurinational State of), Brazil, Cuba, Haiti, Jamaica and Mexico.

Western European and Other States Group: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Ireland, Italy, Netherlands, New Zealand, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland and United States of America.

Table 3
Gender representation

	Arusha branch	*The Hague branch*	*Mechanism overall (percentage)*
Professional staff (all levels)	36	153	189
Male	25	59	84 (44)
Female	12	94	106 (56)
Professional staff (P-4 and above)	14	65	79
Male	11	26	37 (47)
Female	3	39	42 (53)

Table 4
Staff by organ

	Arusha branch	*The Hague branch*	*Mechanism overall*
Chambers (including the Office of the President)	5	27	32
Office of the Prosecutor	16	69	85
Registry	134	258	392
Immediate Office of the Registrar	9	14	23
Archives and Records Section	19	11	30
Witness Support and Protection	10	17	27
Conference Support Services	–	18	18
Language Support Services	6	46	52
Public Relations	2	7	9
Office for Legal Aid and Defence	–	3	3
Administration	29	82	111
Security (including United Nations Detention Facility and United Nations Detention Unit)	59	60	119

Enclosure 2

International Residual Mechanism for Criminal Tribunals: information relating to costs

Table 1

Commitment authority for 2018 (net of staff assessment), by branch and organ[a]

(United States dollars)

Branch	*Post and non-post[b]*	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	1 639 600	11 301 900	–	12 941 500
	Non-post	1 250 700	2 963 200	17 337 500	1 622 050	23 173 450
	Subtotal	**1 250 700**	**4 602 800**	**28 639 400**	**1 622 050**	**36 114 950**
The Hague	Post	–	1 293 400	5 129 500	–	6 422 900
	Non-post	1 759 800	4 820 100	29 253 600	1 622 050	37 455 550
	Subtotal	**1 759 800**	**6 113 500**	**34 383 100**	**1 622 050**	**43 878 450**
Overall	Post	–	2 933 000	16 431 400	–	19 364 400
	Non-post	3 010 500	7 783 300	46 591 100	3 244 100	60 629 000
	Total	**3 010 500**	**10 716 300**	**63 022 500**	**3 244 100**	**79 993 400**

[a] Commitment authority approved by the General Assembly in resolution 72/258 for the period from 1 January to 31 December 2018.

[b] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Table 2

Expenditures (net of staff assessment) as at 1 May 2018 (per Umoja), by branch and organ

(United States dollars)

Branch	*Post and non-post[a]*	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	731 256	2 719 498	–	3 450 754
	Non-post	100 086	193 378	3 208 901	960 972	4 463 338
	Subtotal	**100 086**	**924 634**	**5 928 400**	**960 972**	**7 914 092**
The Hague	Post	–	419 568	1 792 834	–	2 212 402
	Non-post	854 710	2 448 303	13 468 671	488 018	17 259 702
	Subtotal	**854 710**	**2 867 871**	**15 261 505**	**488 018**	**19 472 105**
Overall	Post	–	1 150 824	4 512 333	–	5 663 156
	Non-post	954 796	2 641 682	16 677 572	1 448 990	21 723 040
	Total	**954 796**	**3 792 505**	**21 189 905**	**1 448 990**	**27 386 196**

[a] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Table 3
Percentage of commitment authority expended as at 1 May 2018, by branch and organ

Branch	*Post and non-post*[a]	*Chambers*	*Office of the Prosecutor*	*Registry*	*Liabilities: pensions of former judges of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, and after-service health insurance of former staff of both Tribunals*	*Mechanism*
Arusha	Post	–	44.6	24.1	–	26.7
	Non-post	8.0	6.5	18.5	59.2	19.3
	Subtotal	**8.0**	**20.1**	**20.7**	**59.2**	**21.9**
The Hague	Post	–	32.4	35.0	–	34.4
	Non-post	48.6	50.8	46.0	30.1	46.1
	Subtotal	**48.6**	**46.9**	**44.4**	**30.1**	**44.4**
Overall	Post	–	39.2	27.5	–	29.2
	Non-post	31.7	33.9	35.8	–	35.8
	Total	**31.7**	**35.4**	**33.6**	**44.7**	**34.2**

[a] Non-post includes all commitment items other than posts, such as general temporary assistance, travel and rental of premises.

Annex II

Progress report of the Prosecutor of the International Residual Mechanism for Criminal Tribunals, Serge Brammertz, for the period from 16 November 2017 to 15 May 2018

I. Overview

1. The Prosecutor submits this twelfth progress report pursuant to Security Council resolution 1966 (2010), covering developments between 16 November 2017 and 15 May 2018.

2. During the reporting period, the Office of the Prosecutor of the Mechanism continued to focus on three priorities: (a) the expeditious completion of trials and appeals; (b) locating and arresting the eight remaining fugitives indicted by the International Criminal Tribunal for Rwanda; and (c) assisting national jurisdictions prosecuting international crimes committed in Rwanda and in the former Yugoslavia. The Office relies on the full cooperation of States to carry out its mandate successfully in those areas.

3. The Office of the Prosecutor continued to engage in intense trial and appeal work during the reporting period. The Appeals Chamber of the International Tribunal for the Former Yugoslavia issued its judgment in the *Šešelj* case, granting the Prosecution's appeal in part, convicting the accused for crimes against humanity and entering a sentence of 10 years of imprisonment. The trial in the *Stanišić and Simatović* case continued, and the Prosecution is close to completing the presentation of its evidence-in-chief. The Office also presented its oral appeal arguments in the *Karadžić* case and commenced preparation of its written appeal arguments in the *Mladić* case. As previously reported, in addition to the trial and appeal activity in The Hague, the Office processed at both branches a high volume of other litigation arising from completed cases.

4. The Office of the Prosecutor continued its efforts to locate and track the remaining fugitives. The Office made progress in understanding how the fugitives had supported and sustained themselves while evading justice. The Office expresses its appreciation to the International Criminal Police Organization (INTERPOL), the Government of Rwanda and other partners for supporting the Office's efforts to locate and arrest the remaining fugitives.

5. Regarding national prosecutions of war crimes committed in Rwanda, the Office of the Prosecutor, within existing resources, continued to monitor cases referred to the Rwandan and French authorities, to provide national justice sectors with access to the evidence collection of the Mechanism and to support national accountability for those crimes.

6. Regarding national prosecutions of war crimes committed in the former Yugoslavia, the closure of the International Tribunal for the Former Yugoslavia at the end of 2017 marked the end of the first phase of the completion strategy. It also marked the beginning of the next chapter. With the Tribunal's closure, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia. While national courts have achieved progress so far, albeit unevenly among different countries, far more remains to be done, particularly in processing senior- and mid-level suspects who worked together with or were subordinate to senior-level war criminals prosecuted and convicted by the Tribunal. As national courts in the former Yugoslavia now continue the implementation of the completion strategy, it is essential to ensure that there is

continuity in engagement with national war crimes justice and that support for national judiciaries is further strengthened.

7. In managing its work, the Office of the Prosecutor continued to be guided by the views and requests of the Security Council as set forth in, inter alia, paragraphs 18 to 20 of its resolution 2256 (2015).

II. Trials and appeals

8. During the reporting period, the Office of the Prosecutor worked on one trial (*Stanišić and Simatović*) and three appeals proceedings (*Karadžić*, *Mladić* and *Šešelj*) arising from cases transferred from the International Tribunal for the Former Yugoslavia pursuant to the statute of the Mechanism and the transitional arrangements (Security Council resolution 1966 (2010), annexes 1 and 2). The *Šešelj* case has now been completed, leaving only one trial and two appeals proceedings. This ad hoc judicial activity is temporary in nature, and the Office is taking all steps under its control to expedite the completion of those final proceedings.

A. Update on the progress of trials

9. On 15 December 2015, the Appeals Chamber of the International Tribunal for the Former Yugoslavia reversed the trial judgment in the *Stanišić and Simatović* case and ordered the case to be retried on all counts. Pursuant to the statute of the Mechanism and the transitional arrangements, the retrial is being conducted by the Mechanism. The trial proceedings in the case commenced on 13 June 2017.

10. At the direction of the Trial Chamber, the sitting schedule is limited to three consecutive days per week in the case. On 6 March 2018, the Trial Chamber rejected the Prosecution's motion to extend the sitting schedule to four 4-hour sessions per week. Since the beginning of the Prosecution's case-in-chief in June 2017, the Prosecution has led the evidence of 34 witnesses in court (27 pursuant to rule 111 and 7 pursuant to rule 116 of the Rules of Procedure and Evidence), all but one of whom were cross-examined by the Defence. The Prosecution also tendered, and the Chamber admitted, the written evidence of 45 witnesses (18 witnesses pursuant to rule 110, 20 witnesses pursuant to rule 112 and 7 who were submitted by agreement among the parties pursuant to rule 111). The Prosecution further submitted 2,273 exhibits totalling 36,979 pages. In the context of the decision of the Trial Chamber to limit the evidence the Prosecution is allowed to lead, the Prosecution filed and litigated 60 motions for the admission of evidence. The Prosecution also responded to 45 motions filed by the Defence in the case.

11. The Prosecution anticipates that it will conclude the presentation of its evidence in July or August 2018.

B. Update on the progress of appeals

1. *Karadžić*

12. On 24 March 2016, the Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Radovan Karadžić for genocide, crimes against humanity and war crimes and sentenced him to a term of imprisonment of 40 years. On 5 December 2016, the Office of the Prosecutor filed its appeal brief against the trial judgment. The Office identified four grounds of appeal, including against the acquittal for genocide in 1992 and the imposed sentence. The Defence also filed its

appeal brief, which set out 50 grounds of appeal. The Office completed the written appeals briefing in the case on 6 April 2017.

13. During the reporting period, the Office presented its oral appeal arguments during the hearing held on 23 and 24 April 2018. The Prosecution provided its responses to Karadžić's 50 grounds of appeal, which included detailed matters of both fact and law. The Prosecution also provided its arguments and replies in relation to its four grounds of appeal.

2. *Šešelj*

14. On 31 March 2016, a Trial Chamber of the International Tribunal for the Former Yugoslavia, by majority, acquitted Vojislav Šešelj on all counts of the indictment. The Office of the Prosecutor filed its appeal brief on 18 July 2016. The Office put forward two grounds of appeal, arguing that the Trial Chamber had erred in law by failing to deliver a reasoned judgment and that the Trial Chamber had erred in fact by acquitting the accused. The Office completed the written appeal briefing in the case on 22 February 2017, and the oral appeal hearing took place on 13 December 2017.

15. On 11 April 2018, the Appeals Chamber partly granted the Prosecution's appeal and convicted Šešelj for instigating persecution (forcible displacement), deportation and other inhumane acts (forcible transfer) as crimes against humanity and for committing persecution (violation of the right to security) as a crime against humanity. Šešelj was sentenced to 10 years of imprisonment. The Appeals Chamber declared that the sentence was served in view of Šešelj's time spent in provisional detention.

3. *Mladić*

16. On 22 November 2017, a Trial Chamber of the International Tribunal for the Former Yugoslavia unanimously convicted Ratko Mladić of genocide, terror, persecution, extermination, murder, unlawful attacks on civilians, deportation, inhumane acts and hostage-taking, and sentenced him to life imprisonment. The trial commenced on 16 May 2012, and the hearing of evidence lasted for 530 trial days over four years, during which the evidence of 592 witnesses and nearly 10,000 exhibits were introduced by the parties. The closing arguments were held from 5 to 15 December 2016.

17. The Trial Chamber found Mladić responsible for participating in four joint criminal enterprises to commit genocide, crimes against humanity and/or war crimes and accordingly convicted him for the crimes committed in furtherance of those criminal enterprises. First, the so-called "overarching joint criminal enterprise", which existed between 1991 and November 1995, had the objective of permanently removing Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory through the commission of crimes in municipalities throughout Bosnia and Herzegovina. Second, the so-called "Sarajevo joint criminal enterprise", which existed between May 1992 and November 1995, aimed to spread terror among the civilian population of Sarajevo through a campaign of sniping and shelling. Third, the so-called "hostage-taking joint criminal enterprise", which existed between 25 May and 24 June 1995, had the common purpose of taking United Nations personnel hostage to compel the North Atlantic Treaty Organization to abstain from conducting air strikes against Bosnian Serb targets. Fourth, the so-called "Srebrenica joint criminal enterprise", which existed in 1995, had the objective of destroying the Bosnian Muslims in Srebrenica by killing the men and boys and forcibly removing the women, young children and some elderly men. By majority, the Trial Chamber further found that perpetrators in several other municipalities had intended to destroy the Bosnian Muslims in those municipalities. However, the Trial Chamber was not

satisfied beyond reasonable doubt that the Bosnian Muslims targeted in each municipality constituted substantial parts of the protected group.

18. On 22 March 2018, the Office of the Prosecutor filed its notice of appeal against the trial judgment, identifying two grounds of appeal. On the same date, the Defence also filed its notice of appeal, which set out nine grounds of appeal. The Office is now preparing its written appeal brief, which will be followed by its response brief and its reply brief.

C. Cooperation with the Office of the Prosecutor

19. The Office of the Prosecutor of the Mechanism continues to rely on the full cooperation of States to successfully complete its mandate. The Office's access to documents, archives and witnesses is critical for ongoing trial and appeal proceedings of the Mechanism and for locating and arresting fugitives and witness protection.

20. During the reporting period, the cooperation of Bosnia and Herzegovina, Croatia, Rwanda and Serbia with the Office of the Prosecutor of the Mechanism remained satisfactory. The Office continues to require assistance in relation to trial, appeal, review and contempt proceedings, including the provision of evidence and access to witnesses, and fully expects that its requests for assistance will be promptly and adequately processed.

21. Cooperation and support from States outside Rwanda and the former Yugoslavia, as well as from international organizations, remain integral to the successful completion of Mechanism activities. The Office of the Prosecutor again acknowledges the support it received during the reporting period from Member States and international organizations, including the United Nations and its agencies, the European Union, the North Atlantic Treaty Organization, the Organization for Security and Cooperation in Europe (OSCE) and INTERPOL.

22. The international community continues to play an important role in providing incentives for States to cooperate with the Mechanism and to undertake national prosecutions of war crimes. The policy of conditionality of the European Union, linking membership progress to full cooperation with the International Tribunal for the Former Yugoslavia and with the Mechanism, remains a key tool for ensuring continued cooperation with the Mechanism and consolidating the rule of law in the former Yugoslavia. Assistance is also increasingly needed to support the national prosecution of war crimes cases in Rwanda and in the former Yugoslavia.

III. Fugitives

23. As at the end of the reporting period, eight fugitives indicted by the International Criminal Tribunal for Rwanda remained at large. The Office of the Prosecutor of the Mechanism continued its efforts to locate and arrest the three fugitives whose cases will be tried by the Mechanism: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. The Office also continued to search for information on the whereabouts of the five fugitives who are currently expected to be brought to trial in Rwanda following their arrest: Fulgence Kayishema, Charles Sikubwabo, Aloys Ndimbati, Ryandikayo and Phénéas Munyarugarama.

24. During the reporting period, the Office made progress in understanding how the fugitives had supported and sustained themselves while evading justice. Valuable new intelligence and leads are being generated through the Office's tracking activities and the regular cooperation of participants in the European and African Task Forces. This is allowing the Office to develop a clearer picture of the strategies that the fugitives

have put in place, including the use of support networks and seeking the protection of influential persons.

25. The Office reiterates that under the War Crimes Rewards Programme of the Government of the United States of America, individuals (not including government officials) who provide information leading to the arrest of a fugitive may be eligible for a monetary reward of up to $5 million. The Office recalls that Member States are obligated by international law to cooperate in the search for the fugitives and encourages them to further strengthen their assistance to this vital work.

IV. Assistance to national war crimes prosecutions

26. National prosecutions are now essential to achieving greater justice for the victims of war crimes, crimes against humanity and genocide committed in the former Yugoslavia and Rwanda. In line with the completion strategies of the Tribunals, Security Council resolutions 1966 (2010) and 2256 (2015) and the statute of the Mechanism, the Office of the Prosecutor is mandated to assist and support effective national prosecutions of those crimes. In the affected countries, the effective prosecution of the crimes committed is fundamental to building and sustaining the rule of law, establishing the truth of what occurred and promoting reconciliation. Third-party States are also undertaking prosecutions against suspects who are present in their territories for crimes committed in Rwanda and the former Yugoslavia.

27. The Office continued its efforts, within existing resources, to monitor, support and advise national judicial authorities prosecuting war crimes cases arising from the conflicts in Rwanda and the former Yugoslavia. The Office maintains an ongoing dialogue with those authorities and undertakes a range of initiatives to assist and build capacity in national criminal justice sectors.

A. War crimes committed in Rwanda

28. Five cases referred by the International Criminal Tribunal for Rwanda under rule 11 bis of its Rules of Procedure and Evidence are currently being processed in the national courts of France and Rwanda. The cases against Wenceslas Munyeshyaka and Laurent Bucyibaruta were referred to France in 2007. Jean Uwinkindi, Bernard Munyagishari and Ladislas Ntaganzwa were transferred to Rwanda in 2012, 2013 and 2016, respectively. All proceedings are ongoing.

1. Cases referred to France

29. Wenceslas Munyeshyaka, an ordained Catholic priest, was indicted by the International Criminal Tribunal for Rwanda in July 2005 on four counts, namely genocide, rape as a crime against humanity, extermination as a crime against humanity and murder as a crime against humanity. The Tribunal referred the indictment to France for trial on 20 November 2007. As previously reported, the investigation by the French authorities in the *Munyeshyaka* case has not resulted in charges being brought against the suspect. On the recommendation of the Paris Public Prosecutor, the investigating judge on 2 October 2015 issued a decision to dismiss the case, which the civil parties appealed. The appeal hearing took place before the Investigation Chamber of the Court of Appeals of Paris on 31 January 2018. A decision is expected to be rendered on 21 June 2018.

30. Laurent Bucyibaruta, the prefect of Gikongoro Prefecture, was indicted by the International Criminal Tribunal for Rwanda in June 2005 on six counts, namely direct and public incitement to commit genocide, genocide, complicity in genocide,

extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. The Tribunal referred the indictment to France for trial on 20 November 2007. The investigation by the French authorities has now been completed. The Prosecutor's Office is expected to submit its final conclusions to the investigating judge by June 2018. It will be some months before a decision by the investigating judge on whether to proceed to trial can be expected.

31. Although the Office of the Prosecutor recognizes the challenges the French judiciary has faced in processing those cases, the Office remains concerned by the self-evidently slow progress. In both cases, the International Criminal Tribunal for Rwanda referred confirmed indictments to France in 2007, yet the cases have been at the investigative phase or pretrial phase for over 10 years. The Office of the Prosecutor urges the French authorities to prioritize those cases and to ensure that further decisions are taken expeditiously.

2. Cases referred to Rwanda

32. Jean Uwinkindi, a pastor in the Pentecostal Church, was indicted by the International Criminal Tribunal for Rwanda in September 2001 on three counts, namely genocide, conspiracy to commit genocide and extermination as a crime against humanity. He was transferred to Rwanda for trial on 19 April 2012, and the trial commenced on 14 May 2012. On 30 December 2015, the High Court of Rwanda issued its trial judgment, convicting Uwinkindi and sentencing him to life imprisonment. Appeals proceedings are under way.

33. Bernard Munyagishari, a local leader in the *Mouvement républicain national pour la démocratie et le développement* party, was indicted by the International Criminal Tribunal for Rwanda in September 2005 on five counts, namely conspiracy to commit genocide, genocide, complicity in genocide, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 24 July 2013. On 20 April 2017, the High Court of Rwanda issued its trial judgment, convicting Munyagishari of genocide and murder as a crime against humanity, acquitting him of rape as a crime against humanity and sentencing him to life imprisonment. Appeals proceedings are under way.

34. Ladislas Ntaganzwa, mayor of Nyakizu commune, was indicted by the International Criminal Tribunal for Rwanda in June 1996, with the amended indictment charging him with five counts, namely genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, murder as a crime against humanity and rape as a crime against humanity. He was transferred to Rwanda for trial on 20 March 2016. Trial proceedings are under way.

B. War crimes committed in the former Yugoslavia

1. Completion strategy of the International Tribunal for the Former Yugoslavia

35. As the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia emphasized in its final completion strategy report (S/2017/1001), the completion strategy of the Tribunal has always foreseen that the end of the Tribunal's mandate would not be the end of justice for war crimes committed in the former Yugoslavia, but the beginning of the next chapter. With the closure of the Tribunal, further accountability for the crimes now depends fully on national judiciaries in the countries of the former Yugoslavia.

36. The final completion strategy report of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia sets out the achievements of the Tribunal in implementing the completion strategy and achieving justice for the crimes

committed during the conflicts in the former Yugoslavia. The Office secured the conviction of 90 individuals for war crimes, grave breaches of the Geneva Conventions, crimes against humanity and/or genocide. The persons convicted include senior political and military officials from nearly all parties to the conflicts. It was proved repeatedly that during the conflicts, leaders pursued their political and military goals through the commission of crimes. The organized criminal campaigns led to millions of refugees and internally displaced persons and more than 100,000 deaths. The Tribunal's work has created a solid foundation for national judiciaries to continue to implement the completion strategy and secure more justice for more victims.

37. Fifteen years after the adoption of the completion strategy, national judiciaries have achieved progress in accountability for war crimes, albeit unevenly among different countries. The greatest progress has been made in Bosnia and Herzegovina. Croatia has also processed a large number of cases, although many were proceedings in absentia. To date, a much smaller number of cases have been completed in Serbia, while the Montenegrin authorities have completed very few cases. Looking forward, national judiciaries continue to face a very large backlog of war crimes cases to process, with several thousand cases remaining across the region. Most importantly, much more remains to be done to bring to justice senior- and mid-level suspects who worked together with or were subordinate to senior-level war criminals prosecuted and convicted by the International Tribunal for the Former Yugoslavia. The cases against many senior- and mid-level officials, in particular military and police commanders, connected with crimes established by the Tribunal have not yet been processed. As those crimes have already been established beyond reasonable doubt and the most senior officials held accountable for the crimes, it must be expected that related cases against associated senior- and mid-level suspects can be processed expeditiously and effectively.

38. With the closure of the International Tribunal for the Former Yugoslavia, it is essential to ensure that there is continuity in engagement with the national war crimes justice process and that support to national judiciaries is further strengthened. Experience so far in the implementation of the completion strategy offers a number of valuable lessons learned. The direct engagement of the Office of the Prosecutor of the Tribunal was essential to promoting progress and resolving challenges. National authorities have requested the Office of the Prosecutor of the Mechanism to continue that direct engagement, and the Office is committed to deepening the support it provides, in particular by providing evidence, capacity-building and assistance in concrete cases. Similarly, financial and technical support from partners, in particular from the European Union, has been critical to the progress achieved. In particular, the support provided to war crimes justice in Bosnia and Herzegovina by the Instrument for Pre-accession Assistance of the European Union is a model that has delivered tangible results and could be replicated elsewhere in the region. Finally, it is clear that with strong political and diplomatic support from the international community, justice for war crimes can be achieved in national courts, but if support for accountability is low on the agenda, positive trends will be reversed and impunity will move to the forefront. For national courts to succeed in continuing the implementation of the completion strategy, it is critical that international organizations such as the United Nations and the European Union and individual Member States continue to fully support and strengthen their assistance to the national war crimes justice process.

2. Regional judicial cooperation

39. Judicial cooperation between the countries of the former Yugoslavia is essential to ensure that those responsible for war crimes are held accountable. Many suspects

may not be present in the territory where they are alleged to have committed the crimes and cannot be extradited to the territorial State for prosecution. The Offices of the Prosecutor of the International Tribunal for the Former Yugoslavia and of the Mechanism have repeatedly called attention to the negative trends in regional judicial cooperation in war crimes justice.

40. In its tenth progress report (S/2017/434, annex II), the Office of the Prosecutor of the Mechanism reported that judicial cooperation between Serbia and Kosovo[2] in war crimes matters had broken down. This situation has not improved and creates an undeniable barrier to justice. The Serbian authorities report that all requests for assistance to justice authorities in Kosovo in relation to war crimes are refused on the grounds that the Serbian authorities do not have jurisdiction over crimes committed in Kosovo. The Office of the War Crimes Prosecutor of Serbia has further provided information showing that the refusal of the authorities in Kosovo to provide judicial cooperation has blocked specific cases from moving forward, including one case against a perpetrator in Serbia in which the filing of an indictment would require cooperation from Kosovo. The refusal of the authorities in Kosovo to provide judicial cooperation in war crimes matters to the Serbian authorities is legally untenable and fails to demonstrate a commitment to cooperation and good neighbourly relations. The Office of the Prosecutor of the Mechanism urges the authorities in Kosovo to reconsider their position and make all efforts to respond positively to requests for assistance from the Office of the War Crimes Prosecutor of Serbia.

41. Unfortunately, this situation is not unique in the region. As discussed more fully below, the Croatian authorities continue to refuse to provide judicial cooperation in relation to a large and growing number of war crimes cases originating in Bosnia and Herzegovina and Serbia. The Office of the Prosecutor of the Mechanism underscores that barriers to effective regional judicial cooperation in war crimes matters unavoidably lead to impunity and the denial of justice for the victims.

42. On a more positive note, the Office of the Prosecutor of the Mechanism recognizes the productive cooperation that has developed and continued between the Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of Serbia, which the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia first highlighted in its twenty-third completion strategy report (S/2015/342, annex II). Since January 2016, the Office of the War Crimes Prosecutor has filed indictments in more than 10 cases transferred from Bosnia and Herzegovina, although admittedly all cases concerned low-level perpetrators. The respective Chief Prosecutors both report that cooperation is strong and have expressed their willingness to further strengthen their cooperation. The Office of the Prosecutor of the Mechanism considers that the judicial cooperation in war crimes matters between the Prosecutor's Office of Bosnia and Herzegovina and the Office of the War Crimes Prosecutor of Serbia is a positive example for the region. The Office of the Prosecutor of the Mechanism will work with those partners to further improve their cooperation, in particular at the strategic level.

3. Bosnia and Herzegovina

43. The Office of the Prosecutor of the Mechanism continued to enjoy positive discussions with the Acting Chief War Crimes Prosecutor of Bosnia and Herzegovina about continued cooperation in war crimes justice. The Acting Chief Prosecutor underlined her desire for even closer cooperation and collaboration with the Office, including through assistance in concrete cases, strategic support and activities to transfer the lessons learned from the International Tribunal for the Former Yugoslavia.

[2] All references to Kosovo shall be understood as being in full compliance with Security Council resolution 1244 (1999).

The Office of the Prosecutor of the Mechanism is committed to continuing its support for the work of the Prosecutor's Office of Bosnia and Herzegovina, particularly in the mutual goal of successfully implementing the national war crimes strategy.

44. During the reporting period, the Prosecutor's Office of Bosnia and Herzegovina filed 29 indictments, maintaining a steady rate comparable to that observed in previous periods. Many indictments concerned low-level perpetrators, and the majority of indictments charged only a single accused. Nonetheless, the Prosecutor's Office continued to file important indictments in complex cases against senior- and mid-level officials, including against Tomislav Kovač for the Srebrenica genocide, Nehru Ganić and 11 others for the Čemerno massacre, and 13 accused for crimes committed in Čelibići. At the same time, there has not yet been significant progress in resolving the so-called "rules of the road" cases initially reviewed by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, which the Prosecutor's Office of Bosnia and Herzegovina and the Office of the Prosecutor of the Mechanism have jointly identified as important priorities for action.

45. The Office of the Prosecutor of the Mechanism deeply regrets the reactions to the recent arrest of General Atif Dudaković on suspicion of committing war crimes in the Bihać area. Government officials and others falsely claimed that the arrest was an attack on the "honour" of the Army of the Republic of Bosnia and Herzegovina, that Dudaković was a "hero" and that crimes could not have been committed because the Army of the Republic of Bosnia and Herzegovina was defending the country. The Sarajevo Canton Assembly adopted a resolution criticizing the arrests as "anti-Bosnian" and for portraying heroes as war criminals. The Office underlines that independent and impartial justice demands the prosecution of all cases supported by sufficient credible evidence. Government officials, politicians and community leaders should act responsibly and refrain from commenting on or politicizing ongoing judicial proceedings, out of respect for both the victims and the rule of law.

46. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, accountability for war crimes in Bosnia and Herzegovina continues to move in a generally positive direction, with significant results having been achieved so far. In past years, the Office of the Prosecutor of the Tribunal and the Office of the Prosecutor of the Mechanism were critical of the work of the Prosecutor's Office of Bosnia and Herzegovina, including for the long delays in completing the processing of category II cases, the focus on quantity over quality and the failure to honour commitments. However, following intense discussions about those and other issues, and utilizing the resources provided by the European Union, the Prosecutor's Office of Bosnia and Herzegovina shifted its activities in a more positive direction, particularly under the leadership of the Acting Chief Prosecutor. In the past two years, it has issued a large number of significant indictments in complex cases involving senior- and mid-level suspects. At the same time, the distribution of cases between State-level and entity-level prosecution offices has been implemented largely as intended, although there continues to be room for meaningful improvement and challenges to overcome. The Office of the Prosecutor of the Mechanism encourages further positive progress to prevent any regression and will continue working with the Prosecutor's Office of Bosnia and Herzegovina and other prosecution offices in the country to achieve further progress in accountability for war crimes.

4. Croatia

47. As in its eleventh progress report (S/2017/971, annex II), the Office of the Prosecutor of the Mechanism is required to report to the Security Council that the Government of Croatia, by failing to withdraw its 2015 conclusion directing its Ministry of Justice not to provide judicial cooperation in certain war crimes cases,

regrettably continues to interfere politically in the justice process. As a result, a large and growing number of war crimes cases against former members of Croatian and Bosnian Croat forces are frozen. Yet the International Tribunal for the Former Yugoslavia found in multiple cases that members of the Croatian and Bosnian Croat forces had committed war crimes, grave breaches of the Geneva Conventions and/or crimes against humanity. In the *Prlić et al.* case, for example, the Tribunal determined that the six accused, together with then-senior leaders of Croatia, were key participants in a joint criminal enterprise to ethnically cleanse Bosnian Muslims from parts of Bosnia and Herzegovina through the commission of crimes against humanity, grave breaches of the Geneva Conventions and other war crimes.

48. Despite the Office's direct engagement with the Croatian authorities and the State Attorney's Office, very little progress has been achieved over the past two years with regard to that Croatian policy and its negative impact. The policy is having the effect of promoting impunity at the expense of victims throughout the region who deserve justice. No satisfactory explanation has been provided for the maintenance of the policy, and indeed none could be provided, particularly by a State member of the European Union. The Government of Croatia should withdraw the policy immediately and allow the justice process to continue without further interference.

49. With respect to the four category II case files discussed in the ninth (S/2016/975, annex II), tenth and eleventh progress reports of the Prosecutor of the Mechanism, there has been some progress. The *Previšić* case is the only one of those cases in which an investigation has been opened. Boško Previšić, a member of the Bosnian Croat Defence Council, was warden of the Gabela detention facility, at which Bosnian Muslim civilians were persecuted, illegally detained, inhumanely treated and killed. During the reporting period, the case concluded with an admission of guilt by the accused at the first trial hearing. He was then sentenced to eight years' imprisonment. This outcome demonstrates that the remaining three category II cases should be processed expeditiously. Separately, the Office reported in the ninth progress report that the judgment in the *Glavaš* case, a category II case previously referred by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia to the State Attorney's Office of Croatia, had been revoked by the Supreme Court of Croatia and remanded for retrial. The retrial only commenced in October 2017. The trial court subsequently decided to separate the case against Branimar Glavaš from the case against his co-accused, although they had been indicted together because Glavaš was alleged to have been the superior of the other accused. As a result, two different trial courts will now hear the same case, placing additional burdens on the victims and the prosecution and creating a risk of inconsistent decisions. The Office of the Prosecutor of the Mechanism reiterates its willingness to provide full support and assistance to the State Attorney's Office in those category II cases, including making available expert staff with case-specific knowledge of the crimes and suspects.

50. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, the status of war crimes justice in Croatia is mixed. The State Attorney's Office of Croatia continues to process a number of war crimes cases, including some cases against senior- and mid-level officials. However, there has been little progress over the past few years in processing cases against suspects who are former members of Croatian or Bosnian Croat forces, although the completion of the *Previšić* case with the admission of guilt by the accused is a step in the right direction. The Office of the Prosecutor of the Mechanism urges the Croatian authorities to demonstrate unambiguously their commitment to independent and impartial justice for war crimes, including by expeditiously processing cases against members of Croatian and Bosnian Croat forces transferred from other countries.

5. Serbia

51. The Office of the Prosecutor of the Mechanism held open and concrete discussions with the President, the Minister of Justice and the Chief War Crimes Prosecutor of Serbia about outstanding issues and the continued cooperation of the Serbian authorities with the Mechanism and its Office of the Prosecutor. It was agreed that while cooperation between the Office and the Serbian authorities was satisfactory, Serbia needed to expedite the processing of war crimes cases and move forward more decisively to implement its commitments under the action plan on chapter 23 (judiciary and fundamental rights) of the European Union acquis and its national war crimes strategy. The Serbian authorities accepted the Office's assessment that actions taken so far had not yet led to improved concrete results. It was agreed that the Serbian authorities would continue and strengthen cooperation with the Office as a means of supporting implementation of the national war crimes strategy.

52. As reported in the ninth, tenth and eleventh progress reports, the Office and the Serbian authorities have had ongoing discussions regarding a number of issues, which were discussed again. The Office took note of the adoption of the prosecutorial strategy for the investigation and prosecution of war crimes in Serbia for the period 2018–2023. As discussed with the Chief War Crimes Prosecutor of Serbia, the prosecutorial strategy is an important tool that should now lead to significantly improved results in the work of the Office of the War Crimes Prosecutor. The Office of the Prosecutor of the Mechanism was further informed that one Deputy War Crimes Prosecutor was appointed during the reporting period, while recruitment exercises are currently ongoing for two more positions. The Office noted that those recruitment exercises would fill existing vacancies, but that no steps had yet been taken to strengthen the Office of the War Crimes Prosecutor by establishing seven new Deputy War Crimes Prosecutor positions and seven new prosecutorial assistant positions, as promised in the action plan on chapter 23 and in the national war crimes strategy. The Serbian authorities made a commitment to immediately increase the staffing of the Office of the War Crimes Prosecutor in line with those documents.

53. The Office of the Prosecutor of the Mechanism and the Serbian authorities continued to disagree about other matters. The *Djukić* case, raised in previous reports of the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia and of the Office of the Prosecutor of the Mechanism, remains the subject of intense discussion. The Ministry of Justice provided the Office with examples of seven other war crimes convictions entered by the courts of Bosnia and Herzegovina that are being enforced in Serbia. Those examples, however, only serve to demonstrate the troubling situation in the *Djukić* case. Novak Djukić is a convicted war criminal who has enjoyed safe haven in Serbia for almost three years after absconding from justice, despite the fact that he is the subject of a valid INTERPOL red notice. It is the responsibility of Serbia to either extradite him to Bosnia and Herzegovina to serve his sentence or ensure that the sentence imposed by the courts of Bosnia and Herzegovina is enforced in Serbia. As long as Djukić remains at liberty in Serbia, despite a final conviction for killing 71 and wounding more than 130 civilians, the case will continue to raise significant doubts about the commitment of Serbia to the fight against impunity for war crimes and positive neighbourly relations. This is unfortunate, as Serbia has otherwise established a positive record of prosecuting war crimes cases, against low-level accused, transferred from Bosnia and Herzegovina and Croatia. The Office hopes to be able to report in the near future that Serbia has lifted doubts by positively resolving this case and demonstrating that the fugitives will not enjoy safe haven in Serbia.

54. Overall, and taking into account the completion strategy of the International Tribunal for the Former Yugoslavia, only a few concrete results in Serbia can be easily

identified, two years after the adoption of the action plan on chapter 23 and the national war crimes strategy. Impunity for many well-established crimes remains the norm. Critically, it is clear that Serbia has not yet taken meaningful steps towards establishing an initial track record of investigation, prosecution and adjudication of a higher number of cases, including against high-level suspects, as well as of cases transferred from the Tribunal to Serbia. Responsibility for improved results in future rests primarily with the Chief War Crimes Prosecutor and the Ministry of Justice. With the adoption of the prosecutorial strategy and the commitment to significantly strengthen staffing, it can now only be expected that the Office of the War Crimes Prosecutor will begin investigating, processing, indicting and prosecuting more cases, particularly against senior- and mid-level officials, at a higher rate and a higher quality. The Office of the War Crimes Prosecutor must meet high expectations for meaningful justice, and the Office of the Prosecutor of the Mechanism is committed to continuing to provide needed assistance, including training and other forms of support.

C. Access to information and evidence

55. With the closure of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia, further accountability for crimes committed in Rwanda and the former Yugoslavia now depends on national justice sectors. The Office of the Prosecutor of the Mechanism seeks to support national judicial authorities prosecuting those crimes, in particular by providing access to evidence and information.

56. The Office possesses extensive evidence and invaluable expertise that can greatly benefit national justice efforts. The evidence collection relating to the former Yugoslavia comprises more than 9 million pages of documents and thousands of hours of audio and video records, most of which was not introduced into evidence in any proceeding of the International Tribunal for the Former Yugoslavia and is thus only available from the Office. The evidence collection relating to Rwanda comprises more than 1 million pages of documents. The Office's staff have unique insight into the crimes and the cases that can assist national prosecutors in preparing and proving their indictments.

57. During the reporting period, the Office of the Prosecutor continued to receive a high volume of requests for assistance from national judiciaries and international organizations.

58. In relation to Rwanda, the Office of the Prosecutor received one request for assistance, which has been processed. In total, the Office handed over 7,395 pages of documentation.

59. In relation to the former Yugoslavia, the Office of the Prosecutor received 234 requests for assistance from five Member States and two international organizations. Of those requests, 184 were submitted by the authorities in Bosnia and Herzegovina, 17 came from Croatia and 20 were from Serbia. In total, the Office handed over 6,093 documents. In addition, the Office filed submissions in relation to 11 requests for variation of witness protective measures, all of which concerned proceedings in Bosnia and Herzegovina. The Office also filed submissions in relation to six applications for information regarding applicable witness protective measures, all of which concerned proceedings in Bosnia and Herzegovina. The Office continued to receive a high volume of requests for assistance during the reporting period and expects to receive an even larger volume of requests in the future.

60. The joint European Union-Mechanism training project for national prosecutors and young professionals continued during the reporting period. Liaison prosecutors

from Bosnia and Herzegovina, Croatia and Serbia are working with the Office of the Prosecutor to support the transfer of evidence and expertise to their home offices and to national prosecutions of war crimes committed in the former Yugoslavia. Similarly, young professionals from those countries are working as interns with the Office, supporting ongoing Mechanism trials and appeals. The Office is grateful to the European Union for consistently supporting this important project and for recognizing the ongoing need to build capacity in national justice sectors.

D. Capacity-building

61. During the reporting period, the Office of the Prosecutor continued its efforts, within existing resources, to build capacity in national judiciaries prosecuting war crimes. The Office's capacity-building efforts focused on the Great Lakes region and East Africa, the former Yugoslavia and global initiatives. Strengthening national capacities supports the principle of complementarity and national ownership of post-conflict accountability.

62. In December 2017, the Office conducted an advanced training course in Mexico on international humanitarian law and international criminal law, with a specific focus on the responsibility of military commanders. The course, organized by Foro De Justicia Internacional, was attended by approximately 250 Mexican military lawyers and was also broadcast to personnel in the field.

63. In February 2018, the Office of the Prosecutor conducted an advanced training course in Dakar on investigating and prosecuting international crimes in Central and West Africa. Thirty prosecutors and investigative judges from the Central African Republic, Côte d'Ivoire, Guinea, Mali, the Niger and Senegal participated in the training, which was very well received. A follow-up course in Abidjan, Côte d'Ivoire, is planned for November 2018.

64. In March 2018, in cooperation with the OSCE Mission to Bosnia and Herzegovina, the Office of the Prosecutor organized a specialized two-day training course in Banja Luka and Sarajevo on the use of the Electronic Disclosure Suite for accessing non-confidential material in the Office's evidence collection. The course was attended by approximately 50 legal associates and investigators from prosecutors' offices and police investigators working on war crimes cases in Bosnia and Herzegovina.

65. The Ministry of Justice, the Office of the War Crimes Prosecutor and the Judicial Academy of the Republic of Serbia have requested the Office of the Prosecutor of the Mechanism to provide war crimes training to members of the Serbian judicial system. Among other topics, the Office intends to provide training on prosecuting conflict-related sexual violence crimes based on its publication *Prosecuting Conflict-related Sexual Violence at the ICTY*, which has been translated into Bosnian-Croatian-Serbian, as reported in the tenth progress report.

66. Within the limits of its operational capacity and existing resources, the Office of the Prosecutor of the Mechanism will continue to engage with training providers and donors to ensure that appropriate practical training in investigative and prosecutorial techniques for war crimes justice is made available. The Office expresses its deep gratitude to partners, including the European Union, the International Association of Prosecutors, the Nuremberg Principles Academy, OSCE and the Governments of Belgium and Switzerland, for providing financial, logistical and other support to enable the Office's capacity-building and training efforts.

E. Missing persons and victim compensation

67. In the Prosecutor's meetings with victims' associations, the lack of information concerning missing family members continued to be consistently identified as one of the most important outstanding issues. The search for and exhumation of mass graves and the subsequent identification of the remains need to be accelerated, as it is essential for surviving family members and fundamental to reconciliation in Rwanda and the States of the former Yugoslavia. Victims from all sides of the conflicts must be identified.

68. During the reporting period, the Office carried out activities to strengthen its support for the search for missing persons in the States of the former Yugoslavia. The Office explored how it can provide national missing persons authorities with information and intelligence from its evidence collection that may assist in tracing and locating those who remain missing today. In the past few years, there have been a number of successful informal efforts to review the evidence in the Office's possession, analyse it and identify leads for action by national authorities. For example, in Bosnia and Herzegovina, the Office and key partners established an informal working group to support the efforts of the country's authorities by providing information and intelligence, which has led to the discovery of a number of grave sites. Based on those successful results and following detailed discussions, the Office and the International Committee of the Red Cross (ICRC) agreed during the reporting period to jointly conduct a thorough review and analysis of information in the Office's evidence collection regarding the fates of each of the 10,000 persons still missing from the conflicts. Information and leads from that review will then be provided to relevant national missing persons authorities for follow-up. The Office and ICRC have every expectation that improved results will be achieved by exploiting the Office's evidence collection and providing international expertise in support of local authorities.

69. In January 2018, the Office hosted a delegation from the Serbian Government Commission on Missing Persons for productive discussions on strengthening cooperation. This initiative was supported by the Office of the War Crimes Prosecutor of Serbia. As a result of those discussions, the Commission will now be able to submit requests for assistance to the Office of the Prosecutor of the Mechanism to gather information in support of its activities.

V. Other residual functions

70. During the reporting period, the Office of the Prosecutor continued to carry out its responsibilities in respect of other residual functions, namely, the protection of victims and witnesses, contempt of court and false testimony, the enforcement of sentences, the review of judgments and the management of records and archives.

71. The volume of litigation before the Mechanism arising from completed cases remains higher than anticipated. During the reporting period, the Office responded to a large number of requests for variation of protective measures and motions for access to case files. In addition, the Office continued to investigate and litigate a review proceeding at its Arusha branch, while also responding to a number of additional motions in relation to review proceedings. Those developments put a strain on the Office's limited resources, especially at the Arusha branch. The Office was nonetheless able to address those unforeseen requirements within existing resources. The Office will continue to monitor the volume of review and related motions and report thereon as appropriate.

72. As reported in the tenth and eleventh progress reports, the Office proposed in early 2016 to amend rule 151 of the Rules of Procedure and Evidence of the Mechanism to establish a programme for conditional early release. The Office is gravely concerned that nearly all convicted persons continue to be released unconditionally after serving only two thirds of their sentences. It is also deeply distressing, particularly to the victims, that those granted early release often deny the crimes and their criminal responsibility immediately upon release. The amendments proposed by the Office would have addressed those legitimate concerns by creating a conditional early release programme, which would have aligned the Mechanism's rules with best practices and established sentencing principles.

73. In April 2018, the Office was informed that the plenary of the judges had refused to adopt the Office's proposal, to make any amendments to the existing regime for early release or to continue its consideration of the matter. The Office regrets that the Mechanism did not take advantage of this important opportunity to address the inadequacies of the current early release regime and to bring it into line with national and international best practices.

74. The Office has now exhausted the avenues available to it for addressing this matter comprehensively. Nonetheless, the Office will be mindful of every opportunity in specific cases to bring its views and concerns to the attention of the President and register its opposition, where warranted, to the unconditional early release of persons convicted of genocide, crimes against humanity or war crimes.

VI. Management

A. Overview

75. The Office of the Prosecutor is committed to managing its staff and resources in line with the instruction of the Security Council that the Mechanism be a "small, temporary and efficient structure". The Office continues to be guided by the views and requests of the Council as set forth in, inter alia, paragraphs 18 to 20 of resolution 2256 (2015).

B. Audit reports

76. In its report on the evaluation of the methods and work of the International Residual Mechanism for Criminal Tribunals (S/2018/206), the Office of Internal Oversight Services (OIOS) concluded that "the Office of the Prosecutor operated with a lean staff and integrated working methods, but friction between management and staff and an unexpectedly high level of judicial activity amid organizational downsizing negatively impacted staff morale".

77. OIOS presented a number of findings that demonstrate that its overall assessment of the methods and work of the Office of the Prosecutor was positive. Regarding the Office's adherence to the vision of the Mechanism as "a small, temporary and efficient structure", as set out by the Security Council, OIOS concluded that: "the Office of the Prosecutor was also effective in planning, restructuring and refining its operational methods to respond to the mandate for a lean and cost-effective organization. As a result, it operated with a small staff and tight resources."

78. OIOS made one recommendation specifically to the Office of the Prosecutor: OIOS noted that due to unforeseen ad hoc judicial activity, "already-stretched Office teams had to work simultaneously on outstanding ICTY cases, an unforeseen retrial

and unexpected litigation arising out of completed Mechanism cases". This caused some difficulties for the Office, particularly in relation to staff morale. OIOS accordingly recommended that the Office should: "support and strengthen staff morale through conduct of a survey to identify key concerns to manage downsizing and upsizing. The Office of the Prosecutor should identify the root causes of low morale to enable better planning for the likely effects of such changes." The Office of the Prosecutor accepted that recommendation and has already begun planning to carry out a survey of staff morale, to analyse the results and to develop strategies to manage institutional changes.

VII. Conclusion

79. During the reporting period, the Office of the Prosecutor engaged in intensive efforts to locate and arrest the remaining eight fugitives indicted by the International Criminal Tribunal for Rwanda and continued its efforts to reform and strengthen its tracking activities. The Office underscores its commitment to arresting the remaining fugitives as soon as possible. State cooperation will be essential to achieving this goal, and the Office appreciates the support already being provided.

80. The Office continued to litigate one trial and two appeals before the Mechanism, all of which were transferred from the International Tribunal for the Former Yugoslavia in accordance with the statute of the Mechanism and the transitional arrangements. During the reporting period, the Appeals Chamber issued its judgment in the *Šešelj* case, granting the Prosecution's appeal in part, convicting the accused for crimes against humanity and entering a sentence of 10 years of imprisonment. In addition to trial and appeal activities in The Hague, the Office processed at both branches a high volume of other litigation arising from completed cases. Using the "one office" approach, the Office will continue to allocate and manage its resources flexibly in order to meet all imposed deadlines.

81. Significant challenges remain with respect to national prosecutions of war crimes committed in Rwanda and in the former Yugoslavia. Regarding war crimes committed in Rwanda, while there has been progress in the cases referred to Rwanda, cases referred to France are still pending more than 10 years after the original referrals. Regarding war crimes committed in the former Yugoslavia, the Office focused its activities during the reporting period on ensuring continuity following the closure of the International Tribunal for the Former Yugoslavia. National authorities now have full responsibility for continuing to implement the completion strategy and to secure more justice for more victims. The Office remains committed to providing its full support, including by responding to requests for assistance, transferring knowledge gained and lessons learned and providing assistance in concrete cases.

82. In all of its endeavours, the Office relies upon and gratefully acknowledges the support of the international community, in particular that of the Security Council.